



## INSURANCE (CONDUCT OF BUSINESS)(LONG TERM BUSINESS) CODE 2018

### Index

Code	Page
1 Title .....	3
2 Commencement .....	3
3 Interpretation.....	3
4 Application .....	4
5 Fair treatment of policyholders – general principles.....	4
6 Product development, marketing and promotion .....	5
7 Key information documents for long term insurance products with an investment element .....	7
8 Mandatory content of a KID .....	8
9 Issue of the KID.....	11
10 Policyholder acknowledgement of a KID .....	11
11 Summary information documents for long term pure protection insurance products .....	12
12 Mandatory content of a SID .....	12
13 Issue of the SID.....	13
14 Policyholder acknowledgement of a SID .....	13
15 KID as an alternative to a SID .....	13
16 Procedures for granting terms of business to brokers.....	13
17 Procedures for monitoring terms of business with brokers .....	15
18 Cancellation rights for long term insurance business .....	15
19 Cancellation disclosure requirements.....	15
20 Start of and duration of the cancellation period.....	16
21 Exercising the right to cancel .....	16
22 Records.....	16
23 Post-sale disclosure requirements .....	17
24 Claims procedures for long term insurance businesses .....	17
25 Exemptions .....	18
<b>SCHEDULE 1</b>	<b>21</b>
<b>DISCLOSURE REQUIRED UNDER EXEMPTION AT PARAGRAPH 25(8)</b>	<b>21</b>

<b>SCHEDULE 2</b>	<b>22</b>
DISCLOSURE REQUIRED UNDER EXEMPTION AT PARAGRAPH 25(9)	22



Statutory Document No. 2018/0291



*Insurance Act 2008*

## INSURANCE (CONDUCT OF BUSINESS)(LONG TERM BUSINESS) CODE 2018

*Laid before Tynwald: 20 November 2018*

*Coming into Operation: in accordance with paragraph 2<sup>1</sup>*

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The Isle of Man Financial Services Authority makes the following Guidance Notes under section 51 of the Insurance Act 2008 as binding guidance, after carrying out the consultations required by section 51(6) of that Act.

### 1 Title

These Guidance Notes are the Insurance (Conduct of Business)(Long Term Business) Code 2018<sup>2</sup>.

### 2 Commencement

- (1) Paragraphs 7 to 14 come into operation on 1 July 2019.
- (2) The remaining paragraphs of these Guidance Notes come into operation on 1 January 2019.

### 3 Interpretation

In these Guidance Notes –

“**the Act**” means the Insurance Act 2008;

“**the Authority**” means the Isle of Man Financial Services Authority;

“**board**” means the board of directors of the regulated entity or, if the regulated entity has no board of directors, its equivalent governing body;

“**class**” means a class of insurance business as set out within the table in regulation 3 of the Insurance Regulations 2018<sup>3</sup>;

“**durable medium**” means any instrument which enables the recipient to store information in a way accessible for future reference for a period of time

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<sup>1</sup> As amended by correction notice dated 13 November 2018.

<sup>2</sup> As amended by correction notice dated 13 November 2018.

<sup>3</sup> SD 2018/0192

adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

“**IVA**” means investment value adjustment;

“**KID**” means key information document;

“**policyholder**” includes a prospective policyholder;

“**recognised regulator**” means a person or an authority (whether a governmental or private body) exercising, whether by law or by the rules of the body, functions corresponding to the functions exercised by the Authority under the Act or any other enactment;

“**regulated entity**” means an entity authorised to carry on insurance business of class 1 or class 2, pursuant to the Insurance Regulations 2018;

“**senior management**” means, in relation to a regulated entity, any person whose appointment is required to be notified to the Authority under the Act, excluding its —

- (a) non-executive directors;
- (b) external auditor; and
- (c) controller where such a controller is not a person whose appointment is required to be notified to the Authority under the Act other than as a controller;

“**SID**” means summary information document; and

“**top up**” means —

- (a) any premium paid after the initial premium, in respect of single premium policies; and
- (b) any additional non-contractual payment or increase in the amount of regular premium paid, in respect of regular premium products.

#### **4 Application**

These Guidance Notes apply only in relation to business written by regulated entities under Class 1 and 2.

#### **5 Fair treatment of policyholders – general principles**

- (1) In paying due regard to its policyholders and treating them fairly, a regulated entity must —
  - (a) establish and implement policies and procedures for the fair treatment of policyholders as an integral part of its business and culture; and
  - (b) ensure that its policies and procedures for the fair treatment of policyholders are set out in writing and are provided to all relevant staff.

- (2) The policies and procedures at (1) should include a consideration of how a regulated entity –
  - (a) develops and markets its products in a way that pays due regard to the interests of policyholders;
  - (b) ensures policyholders are provided with clear information before, during and after the point of sale;
  - (c) only permits distribution methods that are appropriate to the regulated entity's products and its policyholders' needs;
  - (d) deals with policyholder complaints and disputes in a fair and transparent manner;
  - (e) manages the reasonable expectations of policyholders;
  - (f) monitors the regulated entity's performance with respect to the fair treatment of policyholders;
  - (g) ensures that its staff and management are aware of their obligations in relation to the fair treatment of policyholders including through regular training; and
  - (h) ensures that any performance and reward strategies for a regulated entity's staff and management are aligned with the principles of the fair treatment of policyholders and do not result in unfair policyholder outcomes.
- (3) The responsibility for the design, implementation and monitoring of adherence to the policies and procedures in (1) rests with the board and senior management of the regulated entity.
- (4) A regulated entity must regularly review, and update where necessary, the policies and procedures in (1) to ensure that they remain valid and up to date.

## **6 Product development, marketing and promotion**

- (1) A regulated entity must establish and implement product development oversight and governance arrangements designed to treat policyholders fairly. Such arrangements should aim to minimise the risk of potential policyholder detriment, provide for proper management of conflicts of interest and ensure that the interests of policyholders are duly taken into account.
- (2) A regulated entity's product development arrangements must identify and manage any conflicts of interest in the product design and distribution.
- (3) A regulated entity must take all reasonable steps to identify the intended target market for its products, including an assessment of the level of information available and the degree of financial capability of the target market, and maintain a record of this.

- (4) A regulated entity must only design and market products with features, charges, fees and risks that meet the interests, objectives and characteristics of the identified target market. When deciding whether a product meets the interests, objectives and characteristics of a particular target market, the regulated entity should include the identification of any groups of policyholders for which the product is not considered suitable, as may be the case.
- (5) A regulated entity must monitor its products on an ongoing basis to ensure that the product continues to meet the interests, objectives and characteristics of the identified target market. Where the regulated entity identifies a risk of policyholder detriment after designing and bringing products to the market or after carrying out product monitoring, the regulated entity should take timely, appropriate and proportionate action to mitigate the situation and prevent the re-occurrence of detriment.
- (6) A regulated entity must ensure that any staff responsible for designing products possess the appropriate skills, knowledge and competence and are appropriately trained in order to understand the operation of the products' main features and characteristics as well as the interests, objectives and characteristics of the target market.
- (7) A regulated entity must assess the appropriateness of the distribution channels for its products and target market. Such an assessment must include consideration of whether—
  - (a) persons distributing products have the appropriate skills, knowledge and experience to properly distribute each product to the market and, where considered necessary for the product and characteristics of the target market, to provide appropriate advice to policyholders;
  - (b) persons distributing products are able to provide appropriate information to policyholders, as required; and
  - (c) persons distributing products hold the necessary regulatory permissions, authorisations, licences or other forms of consent required for the distribution and, if necessary, advisory activity concerned.
- (8) In selecting a distribution channel and promoting its products through it, a regulated entity must provide the distributor with information which is—
  - (a) of an adequate standard; and
  - (b) clear, precise and up-to-date.
- (9) The information provided to distributors must be sufficient to enable the distributor to—
  - (a) understand and place the product properly to the target market;

- (b) identify the target market for which the product is designed and also identify any group(s) of consumers, whose interests, objectives and characteristics the product is considered likely not to meet; and
  - (c) meet any other obligations under applicable legislation with regard to the target market, notably with regard to the relevant information that needs to be communicated to policyholders.
- (10) A regulated entity must take all reasonable steps to ensure that distribution channels act in compliance with the objectives of its product oversight and governance arrangements. Where a regulated entity considers that a distribution channel does not meet the objectives of the regulated entity's product oversight and governance arrangements, the regulated entity should take timely remedial action with regard to the distribution channel.
- (11) If a regulated entity outsources the design and marketing of its products to a third party, it retains full responsibility for compliance with its product oversight and governance arrangements as described in these Guidance Notes.

## **7 Key information documents for long term insurance products with an investment element**

- (1) Subject to (2), a regulated entity must prepare a KID for each policy and issue it in accordance with paragraph 9.
- (2) Sub-paragraph (1) does not apply to —
  - (a) contracts under which benefits are payable only on death or in respect of incapacity due to injury, sickness or infirmity; or
  - (b) any product that is closed to new policyholders.
- (3) A KID must be accurate, fair, clear and not misleading. A regulated entity must put in place a process to regularly review the information contained in a KID.
- (4) A KID must be a stand-alone document, clearly separate from marketing materials. It must not contain cross-references to marketing material. It may contain cross-references to other documents including a prospectus where applicable, and only where the cross-reference is related to the information required to be included in a KID by this paragraph.
- (5) By way of derogation from sub-paragraph (4), where a regulated entity's product offers policyholders a range of options for investment, such that all information required in paragraph 8(3) with regard to each underlying investment option cannot be provided within a single, concise stand-alone document, a KID must provide at least a generic description of the underlying investment options and state where and how more detailed pre-contractual information and documentation relating to the investment products backing the underlying investment options can be found.

- (6) A KID must be drawn up as a short document written in a concise manner, generally no longer than 3 sides of A4-sized paper when printed, and—
  - (a) set out in a way that is easy to read, using characters of clearly legible size;
  - (b) focussed on the key information that prospective policyholders need; and
  - (c) facilitates policyholders' understanding by using language that is clear, succinct and comprehensible.
- (7) Where colours are used in a KID, these must not diminish the comprehensibility of the information if a KID is printed or photocopied in black and white.
- (8) Where corporate branding or logos are used in a KID, this must not distract the policyholder from the information contained in the document or obscure the text.

## 8 Mandatory content of a KID

- (1) The title “Key Information Document” must appear prominently at the top of the first page of a KID.
- (2) The following explanatory statement must appear directly underneath the title—

“This document provides you with key information about this insurance investment product<sup>4</sup>. It is not marketing material. The information is required by law to help you understand the nature, risks and cost of this product and to help you compare it with other products”.
- (3) A KID must contain the following information —
  - (a) at the beginning of the document, the name of the product, the identity and contact details of the regulated entity and confirmation of the entity's authorisation by the Authority;
  - (b) under a section titled “What is this product?”, the nature and main features of the product, including —
    - (i) the type of product;
    - (ii) its objectives and the means for achieving them, in particular whether it is intended that the objectives are achieved by means of direct or indirect exposure to the underlying investment assets;
    - (iii) a description of the policyholder type to whom the product is intended to be marketed, in particular in terms of the ability to bear investment loss and the investment horizon;

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<sup>4</sup> For Class 1 capital redemption contracts (as defined in the Insurance Regulations 2018), the wording “investment product” can be used instead of “insurance investment product”.

- (iv) where the product offers insurance benefits, details of those insurance benefits, including the circumstances that would trigger them;
- (v) the term of the product, if known;
- (c) under a section titled “Could I lose money?”, a brief indication of whether loss of capital is possible, including:
  - (i) any guarantees or capital protection provided, as well as any limitations to these;
  - (ii) the availability of cancellation rights and the conditions attaching to those rights;
  - (iii) whether the product is covered by a compensation or guarantee scheme, including any protection available under the Life Assurance (Compensation of Policyholders) Regulations 1991<sup>5</sup>;
- (d) under a section titled “What are the risks and what might I get back?”, the risk and reward profile of the product and warnings in relation to any specific risks of the product;
- (e) under a section titled “How long should I hold it and can I take money out early?”
  - (i) details of the cooling off or cancellation period for the product;
  - (ii) an indication of the recommended and, where applicable, required minimum holding period;
  - (iii) the ability to make any conditions on disinvestments, withdrawals or surrender, including all applicable fees and penalties;
  - (iv) information about the potential consequences of cashing in or policy surrender, in full or part, such as the loss of a guarantee, bonuses or additional contingent fees;
- (f) under a section titled “How do I make a complaint?”, information about how and to whom a policyholder can make a complaint about the product and/or the conduct of the regulated entity (consistent with the regulated entity’s complaints procedures established under the Corporate Governance Code of Practice for Commercial Insurers<sup>6</sup>);
- (g) under a section titled “What are the costs?”, –
  - (i) disclosure of all fees and charges directly related to the insurance contract, in tabular format, including a description of the charge, the annual level of charges and the duration of the charging period. Charges should be shown

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<sup>5</sup> GC 0048/91

<sup>6</sup> SD 2018/0247

as a percentage annualised rate or value in the policy currency where the charge is calculable at policy outset as a monetary amount. The table should also describe where these costs will be deducted from;

- (ii) for single premium policies where remuneration is paid to an intermediary at the commencement of a policy, disclosure in the following form in bold text—

**“Although the intermediary firm that has advised you may not charge directly for the advice received, if you take up this policy it will receive a payment from [regulated entity name] of [value of commission, in policy currency OR commission expressed as a percentage of premium] on the commencement of your policy, the cost of which will be met by the charges you pay for the policy.”;**

however, the wording “the cost of which will be met by the charges you pay for the policy” may be removed if it is included in a disclosure in (iii);

- (iii) for single premium policies where ongoing remuneration is paid to an intermediary, disclosure of the amount of the ongoing remuneration or the annual rate of ongoing remuneration in the following form in bold text—

**“In addition, after commencement of your policy, the intermediary firm that has advised you will receive ongoing remuneration from [regulated entity name] of [annual value of ongoing remuneration in policy currency] OR [% annual rate of ongoing remuneration, showing up to 3 decimal places of your policy value] each year for [duration of ongoing remuneration]. The costs of these payments will be met by the charges you pay for your policy.”;**

however, the wording “In addition” may be removed if no initial remuneration has been taken;

- (iv) for regular premium policies where remuneration is paid to an intermediary at the commencement of a policy, disclosure in the following form in bold text —

**“Although the intermediary firm that has advised you may not charge directly for the advice received, if you take up this policy it will receive a payment from [regulated entity name] of [value of commission in policy currency] OR [commission expressed as a percentage of annual premium] OR [commission payable expressed as a percentage of total future premiums payable over contractual policy term] on the commencement of your**

**policy, the cost of which will be met by the charges you pay for the policy.”;**

however, the wording “the cost of which will be met by the charges you pay for the policy” may be removed if it is included in a disclosure in (v);

- (v) for regular premium policies where ongoing remuneration is paid to an intermediary, disclosure of the amount of the ongoing remuneration or the annual rate of ongoing remuneration in the following form in bold text –

**“In addition, after commencement of your policy, the intermediary firm that has advised you will receive ongoing remuneration from [regulated entity name] of [annual value of ongoing remuneration in policy currency] OR [% commission rate, showing up to 3 decimal places of future premiums paid into your policy] each year for [duration of ongoing remuneration]. The costs of these payments will be met by the charges you pay for your policy.”;**

however, the wording “In addition” may be removed if no initial remuneration has been taken.

## 9 Issue of the KID

- (1) A regulated entity must issue a KID to each policyholder either –
  - (a) on paper; or
  - (b) using a durable medium other than paper.
- (2) Subject to (3), a KID must be provided in good time before a policyholder is bound by contract or offer related to the regulated entity’s product. In determining what constitutes “in good time”, a regulated entity must consider –
  - (a) the time necessary for a policyholder to read and understand a KID;
  - (b) the degree of financial capability of the target market for the product, as identified by the requirements set out in paragraph 6 of these Guidance Notes; and
  - (c) the complexity of the investment.
- (3) Policyholders paying a top up must be provided with a KID before or immediately after making the top up.

## 10 Policyholder acknowledgement of a KID

- (1) Subject to (4), a regulated entity must obtain confirmation from a policyholder that he or she has received and understood the information provided in a KID before the policyholder is bound by the contract.

- (2) In order to demonstrate this acknowledgement, a KID must be signed by the policyholder on the same page as the disclosure made in compliance with paragraph 8(3)(g).
- (3) A record to demonstrate this acknowledgement from each policyholder must be maintained by the regulated entity.
- (4) Policyholder acknowledgement is not required for top ups.

## **11 Summary information documents for long term pure protection insurance products**

- (1) A regulated entity must prepare and issue a SID for those contracts it produces under which benefits are payable only on death or in respect of incapacity due to injury, sickness or infirmity.
- (2) A SID must either be in a separate document or within a prominent separate section of another document clearly identifiable as containing key information that the policyholder should read.
- (3) A SID must properly describe the policy and be sufficiently concise not to overload a policyholder with detail.

## **12 Mandatory content of a SID**

- (1) A SID must include the following information –
  - (a) a statement that the SID does not contain the full terms of the policy, but these can be found in the policy document;
  - (b) the name of the regulated entity;
  - (c) the type of insurance and cover;
  - (d) significant features and benefits;
  - (e) significant or unusual exclusions or limitations, and cross-references to the relevant policy document provision;
  - (f) the term or duration of the product;
  - (g) a statement, where relevant, that the policyholder may need to review and update the cover periodically to ensure that it remains adequate;
  - (h) existence and duration of the right of cancellation (other details may be included);
  - (i) contact details for notifying a claim;
  - (j) how to complain to the regulated entity, including a statement that complaints may subsequently be referred to the Isle of Man Financial Services Ombudsman Scheme; and

- (k) that, should the regulated entity be unable to meet its liabilities, the policyholder may be entitled to compensation according to the Life Assurance (Compensation of Policyholders) Regulations 1991<sup>7</sup>.

### **13 Issue of the SID**

- (1) A SID must be issued to the policyholder either —
  - (a) on paper; or
  - (b) using a durable medium other than paper.
- (2) A SID must be provided in good time before a policyholder is bound by contract or offer related to the regulated entity's product. In determining what constitutes "in good time", a regulated entity must consider the time necessary for a prospective policyholder to read and understand the SID.

### **14 Policyholder acknowledgement of a SID**

- (1) A regulated entity must obtain confirmation from a policyholder that he or she has received and understood the information provided in the SID before the policyholder is bound by the contract.
- (2) A record to demonstrate this acknowledgement from each policyholder must be held by the regulated entity.

### **15 KID as an alternative to a SID**

A regulated entity may provide a document that has the contents of a KID instead of a SID. The document must include details for notifying a claim.

### **16 Procedures for granting terms of business to brokers**

- (1) This paragraph applies to a regulated entity which permits the distribution of its products through an intermediary acting on behalf of a policyholder, hereafter referred to as a "broker". For the avoidance of doubt, the requirements in this paragraph shall not apply where an intermediary is appointed as an agent to act on behalf of the regulated entity.
- (2) A regulated entity must establish documented procedures for—
  - (a) the appointment of brokers; and
  - (b) the entering into written terms of business with brokers.
- (3) The procedures referred to in (2) must take account of any requirements prescribed by the Island's Anti-Money Laundering and Countering the Financing of Terrorism legislation, relevant to the regulated entity entering into written terms of business with a broker.

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<sup>7</sup> GC 0048/91

- (4) The procedures referred to in (2) must include a requirement for an application to be made by a broker to a regulated entity, which must be completed by the broker applying for terms of business, and a regulated entity must use this, and where relevant other, information to assess the suitability of the broker for its products and target markets. The application should allow the regulated entity to conduct a fit and proper assessment of the broker based on the review of the following types of information –
- (a) regulatory matters, including –
    - (i) details of the applicant’s authorisation, regulatory or licence permissions granted in the jurisdictions in which the applicant operates. Copies of documents certifying such permissions should be requested; and
    - (ii) details of any affiliations or membership of relevant professional bodies or trade associations;
  - (b) corporate status; and
  - (c) jurisdictional risk.
- (5) Terms of business entered into with brokers must, as a minimum, require the broker to attest that –
- (a) the introduction of business by the broker to the regulated entity pursuant to the agreement does not breach any legal obligation or laws of any competent authority in any relevant jurisdiction;
  - (b) the applicant will use all reasonable efforts to observe the conditions of the agreement;
  - (c) the applicant will at all times act only as the agent of policyholders and not for or on behalf of the insurer;
  - (d) the applicant will at all times maintain every obligatory licence, authorisation and registration and comply with or procure compliance by its officers and agents (as the case may be) with all applicable laws and regulations of jurisdictions in which they distribute products and notify the regulated entity without delay in the event of any material breach or non-compliance with same;
  - (e) the applicant will comply with all anti-money laundering and countering the financing of terrorism laws, regulations, instructions, guidance or rules applicable to the applicant, issued in the Island or elsewhere;
  - (f) where documents and other information are provided by a regulated entity for the attention of the policyholders via the applicant, the applicant will ensure that the policyholders receive such information in good time to enable them to properly consider that information.
- (6) Terms of business entered into with brokers before the implementation of these Guidance Notes that do not comply with (5) may continue in

operation, but any terms of business with brokers that distribute products must be replaced with terms of business that do comply with (5) by 30 June 2019.

## **17 Procedures for monitoring terms of business with brokers**

A regulated entity must establish procedures to regularly monitor brokers with whom it has entered into terms of business to ensure that each broker remains an appropriate distribution channel for its products and target markets.

## **18 Cancellation rights for long term insurance business**

- (1) Subject to (5) and (6), contracts of insurance of the description falling within class 1 and class 2 as set out in the Insurance Regulations 2018<sup>8</sup>, are cancellable contracts.
- (2) Subject to the provisions set out within these Guidance Notes, policyholders have the right to cancel a cancellable contract within the cancellation period and obtain a refund of premiums paid.
- (3) By exercising a right to cancel, a policyholder withdraws from the contract and the contract is terminated.
- (4) Subject to (6), initial premiums and any top ups paid in respect of single premium policies attach the rights of cancellation set out in these Guidance Notes.
- (5) Initial premiums and any top ups paid in respect of regular premium policies shall attach the rights of cancellation set out in these Guidance Notes. Subsequent premiums falling contractually due under existing terms and conditions of regular premium policies do not have attached rights of cancellation.
- (6) In the case of top ups, the right to cancel will only apply to the additional premium paid. By exercising a right to cancel, a policyholder withdraws from any additional contract in force as a result of the top up and that contract is terminated. If there is no additional contract as a result of the top up, by exercising a right to cancel, a policyholder has the right to a refund of the additional premium paid.

## **19 Cancellation disclosure requirements**

A regulated entity must disclose to a policyholder in good time before or immediately after a policyholder is bound by a contract that attracts a right to cancel and in a durable medium —

- (a) the existence of a right to cancel, its duration and any conditions attaching to the exercising of the right to cancel; and

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<sup>8</sup> SD 2018/0192

- (b) practical instructions to a policyholder on how to exercise the right to cancel.

## 20 Start of and duration of the cancellation period

- (1) The cancellation period commences on the date on which the policyholder receives —
  - (a) the policy contract documentation; and
  - (b) any accompanying pre-contractual information required under this Code.
- (2) The cancellation period must be a minimum of 30 days.
- (3) Where applicable legislation made outside the Island requires a different cancellation period to that required under these Guidance Notes, the longer duration must be observed.

## 21 Exercising the right to cancel

- (1) A policyholder may exercise the right to cancel before the expiry of the cancellation period disclosed in accordance with paragraph 19. This condition shall be deemed to have been observed if notification from a policyholder to cancel is dispatched before the cancellation period expires and is subsequently received in a durable medium accessible to the regulated entity.
- (2) When complying with policyholders' right to cancel, a regulated entity has the right to deduct, from the refund of premiums paid under a cancellable contract, an IVA, to reflect the loss a regulated entity may incur in realising the value of any assets purchased by or in respect of the premiums paid under the cancellable contract.
- (3) For the avoidance of doubt, any IVA should not include any allowance for other expenses, including acquisition costs incurred in connection with issuance of the cancellable contract unless applicable legislation made outside the Island permits the inclusion of such expenses.
- (4) The details of the IVA must be set out in the notice required under paragraph 19 and in a KID or SID required under these Guidance Notes.

## 22 Records

Without limiting any other applicable legislative or regulatory requirement, a regulated entity must maintain records concerning the exercise of a right to cancel in accordance with the requirements of the Corporate Governance Code of Practice for Commercial Insurers<sup>9</sup>.

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<sup>9</sup> SD 2018/0247

## 23 Post-sale disclosure requirements

- (1) A regulated entity must ensure a policyholder receives, on an ongoing basis, adequate and appropriate information on the product and services provided by the regulated entity.
- (2) Without limiting the requirements in the Corporate Governance Code of Practice for Commercial Insurers<sup>10</sup>, a regulated entity must establish procedures to ensure effective communication to policyholders of information regarding the regulated entity. Such information should include—
  - (a) any change in the name of the regulated entity, its legal form, the address of its registered office and any other offices as appropriate; and
  - (b) any transfer of the regulated entity's voting shares which has a material effect on its immediate or ultimate control.
- (3) Where an insurance contract issued by a regulated entity allows for changes in terms and conditions, in exercising any change to terms and conditions, a regulated entity must disclose to a policyholder the policyholder's rights and obligations regarding such changes and obtain a policyholder's consent, as appropriate, in accordance with the terms and conditions.

## 24 Claims procedures for long term insurance businesses

- (1) For the purposes of this paragraph the term "claim" does not include payments to policyholders or annuity holders under which a policy is voluntary, wholly or partially, terminated before its maturity or the insured event occurs, for example the payments of a full or part surrender value.
- (2) A regulated entity must —
  - (a) handle claims promptly and fairly;
  - (b) publish and provide reasonable guidance or a summary of its claims procedures to help policyholders make a claim;
  - (c) provide appropriate and timely information on the progress of claims to policyholders, or persons acting on their behalf;
  - (d) not unreasonably reject a claim (including by terminating or voiding a policy); and
  - (e) settle claims promptly once settlement terms are agreed.
- (3) For the purposes of sub-paragraph 2(d), a rejection of a policyholder's claim is unreasonable (except where there is evidence of fraud) if it is rejected for any of the following reasons —

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<sup>10</sup> SD 2018/0247

- (a) (under contracts requiring the disclosure by a policyholder of material facts) the non-disclosure of a fact material to the risk which a policyholder could not reasonably be expected to have disclosed; or
- (b) for breach of warranty or condition unless the circumstances of the claim are connected to the breach and unless —
  - (i) under a 'life of another' contract, the warranty relates to a statement of fact concerning the life to be assured and, if the statement had been made by the life to be assured under an 'own life' contract, the insurer could have rejected the claim under this paragraph; or
  - (ii) the warranty is material to the risk and was drawn to the policyholder's attention before the conclusion of the contract.

## 25 Exemptions

- (1) A regulated entity is exempt from paragraphs 7 to 10 of the Guidance Notes, in relation to a product that is to be distributed in Hong Kong, if an Important Facts Statement and a Key Facts Statement have been produced for the product and issued to a policyholder in accordance with the Guideline on Underwriting Class C Business published by the Hong Kong Insurance Authority and the Updated Requirements Relating to the Sale of Investment Linked Assurance Schemes to Enhance Customer Protection issued by the Hong Kong Federation of Insurers.
- (2) A regulated entity is exempt from paragraphs 7 to 10 of the Guidance Notes in relation to a product that is to be distributed in the United Kingdom, if the product is distributed through an entity regulated by the United Kingdom Financial Conduct Authority.
- (3) A regulated entity is exempt from paragraphs 7 to 10 of the Guidance Notes, in relation to a product to be distributed in the European Union, if the regulated entity has been required to draw up a KID for that product under Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs).
- (4) A regulated entity is exempt from paragraphs 7 to 14 of the Guidance Notes, in relation to a product that is to be distributed in Singapore, if it has obtained written approval from the Monetary Authority of Singapore for distribution of that product.
- (5) A regulated entity is exempt from paragraphs 7 to 14 of the Guidance Notes, in relation to a product that is to be distributed in Argentina, if it has obtained written approval from the Superintendencia de Seguros de la Nación for distribution of that product.

- (6) A regulated entity is exempt from paragraphs 7 to 10 of the Guidance Notes, in relation to a product that is to be distributed in South Africa, if it is in compliance with the Policyholder Protection Rules (Long Term Insurance) 2017 issued by the Financial Services Board.
- (7) A regulated entity is exempt from paragraphs 7 to 14 of the Guidance Notes, in relation to a product that is to be distributed in Qatar, if it is in compliance with the Conduct of Business Rules 2007 issued by the Qatar Financial Centre Regulatory Authority.
- (8) A regulated entity is exempt from paragraphs 7 to 14 of the Guidance Notes where the regulated entity has been formally admitted, permitted or licensed by a recognised regulator and has established a fixed place of business to carry on insurance business in a country or territory outside the Island, subject to the regulated entity including the disclosure at Schedule 1 in information issued to a policyholder before a policyholder is bound by contract or offer related to the regulated entity's product.
- (9) A regulated entity is exempt from paragraphs 7 to 14 of the Guidance Notes in relation to a product that is to be distributed by a broker formally licensed, registered or permitted by a recognised regulator to intermediate insurance business in the United Arab Emirates, subject to the regulated entity including the disclosure at Schedule 2 in information issued to a policyholder before a policyholder is bound by contract or offer related to the regulated entity's product.
- (10) A regulated entity is exempt from paragraphs 7 to 14 of the Guidance Notes in relation to insurance policies issued under employer sponsored schemes, where the contracting party is a corporate entity and the product provides earmarked savings or risk benefits for employees of the corporate employer, but the underlying employee has no contractual rights.
- (11) In this paragraph "insurance business" means the carrying on contracts of a description that fall within the definition of classes 1 or 2 of the Insurance Regulations 2018<sup>11</sup>.

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<sup>11</sup> SD 2018/0192

**MADE ON 1 NOVEMBER 2018**

**KAREN BADGEROW**

*Chief Executive, Isle of Man Financial Services Authority*

**LILLIAN BOYLE**

*Member of the Isle of Man Financial Services Authority*

**SCHEDULE 1**

[Paragraph 25(8)]

**DISCLOSURE REQUIRED UNDER EXEMPTION AT PARAGRAPH 25(8)**

This notice is being provided to you as a customer of [*insert name of Regulated Entity (Branch)*], which is [*insert regulatory permission<sup>12</sup> held in accordance with laws of Recognised Regulator*] by the [*insert name of Recognised Regulator*] and is part of [*insert name of Regulated Entity's Group*]. [*Insert name of Regulated Entity*] is based in the Isle of Man and regulated by the Isle of Man Financial Services Authority.

The Isle of Man Financial Services Authority's Insurance (Conduct of Business) (Long Term Business) Code 2018 requires Isle of Man authorised insurers to put in place measures to ensure the fair treatment of its customers, including providing you with information about this insurance product to help you understand the nature, risks and cost of this product. [*Insert name of Regulated Entity*] is not obliged under local regulations to provide you with the same information.

If you have any questions about the information that has been provided, you should raise them with your adviser. In the event of any issues or concerns regarding the sale of the product, recourse for complaints will be to your adviser or the [*insert name of Recognised Regulator*].

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<sup>12</sup>e.g. "licensed", "authorised", "registered"

**SCHEDULE 2**

[Paragraph 25(9)]

**DISCLOSURE REQUIRED UNDER EXEMPTION AT PARAGRAPH 25(9)**

The Isle of Man Financial Services Authority's Insurance (Conduct of Business) (Long Term Business) Code 2018 requires Isle of Man authorised insurers to put in place measures to ensure the fair treatment of its customers, including providing you with information about this insurance product to help you understand the nature, risks and cost of this product. As this product is being sold to you through your intermediary in the United Arab Emirates, the insurer is not obliged under local regulations to provide you with the same information.

If you have any questions about the information that has been provided to you in deciding to purchase this product, you should raise them with your adviser. In the event of any issues or concerns regarding the sale of the product recourse for complaints will be to your adviser.

*EXPLANATORY NOTE*

*(This note is not part of the Code)*

This Code is in the form of binding Guidance Notes issued by the Isle of Man Financial Services Authority (“Authority”). It requires insurers authorised by the Authority to carry on long term business under Class 1 or Class 2 to put in place measures to ensure the fair treatment of its customers before, during and after the point of sale.

It applies a range of principles to insurers’ business practices in order that policyholders of such insurers are treated fairly, including:

- consideration of the customers’ interests when developing, marketing and promoting insurance products;
- standardised information to be provided to customers in the form of a Key Information Document or a Summary Information Document which must be acknowledged by the customer;
- ensuring that intermediary firms used are suitable distribution channels for the insurer’s products;
- creating cancellation rights for long term insurance products and ensuring that customers are made aware of these; and
- prompt and fair treatment during the claims process.