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Guidance: Purpose of this rulebook

The purpose of this rulebook, “COB”, is to ensure that financial services firms operating in the AIFC meet the standards of conduct expected of such firms, particularly with regard to the treatment of their clients, but also in their dealings with counterparties and other market participants. COB also includes rules to ensure that the behaviour of firms operating in the AIFC contributes to fostering and maintaining the integrity of financial markets in the AIFC.

This will assist the AFSA to meet the regulatory objectives specified in the Financial Services Framework Regulations (the "Framework Regulations"), including the AFSA's objectives of:

- protecting the interests of investors and users of financial services;
- ensuring that the AIFC's financial markets are fair, efficient, transparent and orderly; and
- fostering and maintaining confidence in the AIFC's financial system and regulatory regime.

Chapter 1 (Application) states that the requirements in the COB rulebook generally apply to Authorised Firms licensed to carry on a Regulated Activity. Some requirements may be modified or disapplied altogether depending on the type of Authorised Firm involved, the nature of its activities, and/or the classification of the Client to whom the Authorised Firm provides services.

In particular, the majority of the COB rules do not apply to Insurance Intermediaries, Trust Service Providers, or Ancillary Service Providers, which are instead required to comply with the requirements set out in Chapters 11, 12 or 13 of COB respectively.

For the avoidance of doubt, COB does not apply to Representative Offices or Authorised Market Institutions.

Chapter 2 (Client classification) requires an Authorised Firm to classify each of its Clients as either a Retail Client, Professional Client, or Market Counterparty, depending on the Client's financial resources and knowledge and experience of Financial Services. The Authorised Firm must inform the Client of its classification. The purpose of this classification is to ensure that the COB rules are applied in a risk-sensitive manner in proportion to the risks faced by a Client and the level of protection which that Client requires. In particular, the COB rules seek to ensure that the Client receives an adequate level of protection based on its resources and understanding of the Financial Products and Financial Services involved. For example, a Retail Client is assumed to need more protection than a Market Counterparty, so an Authorised Firm dealing with a Retail Client will be required to comply with more stringent requirements in COB.

Chapter 3 (Communications with Clients and Financial Promotions) imposes a general duty on Authorised Firms to ensure that their communications with Clients are fair, clear and not misleading. In addition, there are specific requirements for the handling of Financial Promotions (that is, marketing materials directed at potential investors). This is to ensure the protection of Clients, including potential clients.

Chapter 4 (Key information and client agreement) provides the key information to be provided by Authorised Firms to their Clients, and the requirement to enter into a client agreement with their Clients. The purpose of this requirement is to ensure that Clients receive the information which they need in order to come to an informed decision about the Financial Products and Financial Services being offered, and to ensure that there is a binding contract containing the rights and obligations of both parties.

Chapter 5 (Conduct of Investment Business) states that an Authorised Firm that is Advising on Investments or Managing Investments for a Client must assess whether the Financial Product or Financial Service being offered is "suitable" for that Client. If the Authorised Firm is Dealing in

Investments or receiving and transmitting orders for a Client, the Authorised Person must assess whether the Financial Product or Financial Service is "appropriate" for the Client. The respective nature of assessments of suitability or appropriateness are described in detail in COB 5. It also contains additional detailed disclosure requirements in respect of Life Policies and Family Takaful Policies.

Chapter 6 (Order execution and order handling) sets out the obligation for an Authorised Firm, when executing an order on behalf of a Client, to obtain the best possible result for the Client. The Authorised Firm is required to handle orders according to a specified order allocation policy.

Chapter 7 (Conflicts of interest) builds on the requirement in GEN that an Authorised Firm must identify a conflict of interest between itself and a Client, or between one Client and another Client, and where appropriate manage such conflicts. COB 7 provides further detail on how such conflicts should be managed and disclosed to the Client. COB 7 is also intended to prevent a third party making payments or providing other benefits to an Authorised Firm in a way that may damage the Client's interests.

Chapter 8 (Client assets) is intended to ensure that, where an Authorised Firm holds or controls Money or Investments belonging to a Client, such Money or Investments will be protected in the event of that Authorised Firm's insolvency.

Chapter 9 (Reporting to clients) states the requirements on an Authorised Firm to report to the Client. COB 9 is intended to ensure that the Authorised Firm provides the Client with post-trade confirmation of the Client's purchases and sales of Investments as well as regular periodic statements on the value of the Investments held by the Authorised Firm on behalf of the Client.

Chapter 10 (Investment research) sets out requirements in relation to the production of investment research by an Authorised Firm. This is intended to prevent any conflict of interest from acting to the detriment of the Client.

Chapter 11 (Insurance intermediaries) deals with specific conduct of business rules that apply to insurance intermediaries.

Chapter 12 (Trust Service Providers) sets out the conduct of business requirements that apply to Trust Service Providers.

Chapter 13 (Ancillary Service Providers) sets out high-level principles that apply to Ancillary Service Providers.

Chapter 14 (Credit Rating Agencies) sets out high-level principles that apply to Credit Rating Agencies.

Chapter 15 (Complaints handling and dispute resolution) contains high-level requirements setting out how a Client may issue a complaint against an Authorised Firm and how this may be escalated in the event of a dispute.

Chapter 16 (Record keeping) sets out how records must be maintained by an Authorised Firm.

Chapter 17 (Operators of a Private E-currency Business) sets out the conduct of business requirements that apply to Operators of a Private E-currency Business.

Chapter 18 (Banks) sets out the conduct of business requirements that apply to Banks.

Chapter 19 (Insurance Business) sets out the conduct of business requirements that apply to Insurers. These requirements relate to the cancellation of Contracts of Insurance and the handling of claims under Contracts of Insurance.

Chapter 20 (Insurance Management) contains provisions which apply to Insurance Managers. These include restrictions upon the services that Insurance Managers are permitted to provide, disclosures

that they are required to make and requirements which apply where Insurance Managers handle claims under Contracts of Insurance.

1. APPLICATION

1.1. General application rule

The requirements in COB apply to an Authorised Firm with respect to any Regulated Activity carried on by an Authorised Firm operating within the jurisdiction of the AIFC as specified in Part 1 of the Framework Regulations.

1.2. Modifications and exclusions

1.2.1. Modifications and exclusions stated in a COB rule

The general application rule in COB 1.1 may be modified or excluded to the extent stated in the relevant provision in COB, depending on the type of Authorised Firm involved, the nature of its activities, and/or the classification of the Client to whom it provides services.

1.2.2. Exclusions in relation to certain categories of Centre Participant

For the avoidance of doubt, the requirements in COB do not apply to:

(a) a Representative Office;

(b) an Authorised Market Institution (other than an Authorised Crowdfunding Platform), except for COB 3 (Communications with Clients and Financial Promotions); or

(c) an Authorised Crowdfunding Platform, except for COB 3 (Communications with Clients and Financial Promotion), COB 4 (Key Information and Client Agreement), COB 7 (Conflicts of Interest), COB 8 (Client Assets) and COB Schedule 2 (Key Information and Content of Client Agreement)

For the purposes of 1.2.2(c), references in COB 3, COB 4, COB 7, COB 8 and COB Schedule 2 to:

(a) "Authorised Firms" shall be read as if it were a reference to "an Authorised Crowdfunding Platforms";

(b) "Regulated Activities" shall be read as if it were a reference to "Market Activities";

(c) references to "Professional Client" or a "Market Counterparty" shall be read as if they were a reference to "Accredited Lender or Accredited Investor"; and

(d) references to "Retail Client" shall be read as if they were a reference to "Retail Lender or Retail Investor".

Guidance: Other applicable requirements

Although the Centre Participants listed in COB 1.2.2 are not generally subject to the requirements in COB, they will be subject to requirements in other Rules, which may include but are not limited to requirements in REP, AMI and GEN as applicable.

1.2.3. Application in respect of Insurance Intermediaries

The requirements in COB do not apply to Insurance Intermediaries, with the exception of COB 3 (Communications with Clients and Financial Promotions), COB 4 (Key Information and Client Agreement), COB 8.5 (Client money: Insurance Intermediation and Insurance Management) and COB 11 (Insurance Intermediaries).

Guidance: Insurance Intermediaries

Given the different nature of their activities compared with other Authorised Firms, Insurance Intermediaries are subject to specific conduct of business requirements that are set out in COB 11.

1.2.4. Application in respect of Trust Service Providers

The requirements in COB do not generally apply to Trust Service Providers, with the exception of COB 3 (Communications with Clients and Financial Promotions), COB 7 (Conflicts of Interest), COB 12 (Trust Service Providers), and COB 15 (Record Keeping).

Guidance: Trust Service Providers

Trust Service Providers provide services that are distinct from those provided by other Authorised Firms, so they are not required to comply with all of the COB rules. COB 12 imposes a specific framework on Trust Service Providers that takes into account the nature of their activities and the risk profile that they represent compared with other Authorised Firms.

1.2.5. Application in respect of Ancillary Service Providers

The requirements in COB do not apply to Ancillary Service Providers, with the exception of COB 13 (Ancillary Service Providers).

Guidance: Ancillary Service Providers

Ancillary Service Providers may already be subject to professional standards, regulation by professional bodies, and/or codes of conduct. As a result, they are not required to comply with most of the requirements in COB. Instead, they are subject to duties and obligations under COB 13, which sets out high-level principles applicable to these firms.

1.2.6. Application in respect of Credit Rating Agencies

The requirements in COB do not apply to Credit Rating Agencies, with the exception of COB 14 (Credit Rating Agencies).

Guidance: Credit Rating Agencies

In order to ensure that Credit Rating Agencies provide independent analyses and opinions, COB 14 requires Credit Rating Agencies to comply with high-level principles that are based on international standards promoted by the International Organisation of Securities Commissions.

1.2.7. Table summarising modifications and exclusions

The general application rule in COB 1.1 is modified or excluded to the extent stated in this table in COB 1.2.7 by reference to the category of Client receiving services from the Authorised Firm ("who?") and/or the nature of the activity ("what?").

Part 1: Who? Modifications and exclusions from the general application rule according to the category of Client who is receiving services from the Authorised Firm	
A: The following provisions do not apply in respect of Market Counterparty Business:	
COB 3.4	Unsolicited Real Time Financial Promotions

COB 4.2.1(b)	Requirement to enter into a client agreement
COB 5	Suitability and appropriateness
COB 6	Order execution and order handling, except for COB 6.2.9 (see COB 6.1.1(a))
COB 11.2. 11.3.2, 11.3.3, 11.4, 11.5, 11.6, 11.7.3-11.7.6	Insurance Intermediaries (see COB 11.1.2)
COB 15	Complaints handling and dispute resolution
B: The following provisions are modified in respect of Market Counterparty Business:	
COB 3.3	Financial Promotions (see COB 3.3.3(a))
COB 4.2.1(a)	Requirement to provide key information (see COB 4.4)
COB 8.2	Client Money Rules (see COB 8.2.2)
COB 9.1	Reporting to clients: Trade confirmations (see COB 9.1.4)
C: The following provisions do not apply in respect of business carried on with Professional Clients:	
COB 3.4	Unsolicited Real Time Financial Promotions
COB 4.2.1(b)	Requirement to enter into a written client agreement
COB 11.2.2, 11.5.2, 11.6.2	Insurance Intermediaries (see COB 11.1.2)
D: The following provisions are modified in respect of business carried on with Professional Clients:	
COB 3.3	Financial Promotions (see COB 3.3.3(a))
COB 4.2.1(a)	Requirement to provide key information (see COB 4.4)
COB 5.2.2	Nature of suitability assessment (see COB 5.2.7)
COB 5.3.4	Nature of appropriateness assessment (see COB 5.3.6)
COB 8.2	Client Money Rules (see COB 8.2.2)
COB 9.1	Reporting to clients: Trade confirmations (see COB 9.1.4)
Part 2: What? Modifications and exclusions from the general application rule according to the nature of the activity	
A: The following provisions do not apply in respect of an Authorised Firm carrying out the Regulated Activity of providing financing using Shari'ah-compliant contracts	
COB 4	Key Information and Client Agreement
B: The following provisions do not apply in respect of a Fund Manager offering the Units of a Fund it manages	

COB 4	Key Information and Client Agreement
C: The following provisions do not apply in respect of an Authorised Firm that executes a Transaction in the course of Managing Investments for a Client	
COB 9.1	Reporting to clients: Trade confirmations

2. CLIENT CLASSIFICATION

2.1. General requirements

2.1.1. Obligation to classify Clients

An Authorised Firm providing any Financial Products or Financial Services to any Person must classify that Person as one of the following categories of Client:

(a) a Retail Client;

(b) a Professional Client; or

(c) a Market Counterparty.

2.1.2. Obligation to notify classification to Clients

An Authorised Firm must notify a new Client of its classification as a Retail Client, Professional Client, or Market Counterparty in accordance with COB 2.1.1 in respect of the Financial Product or Financial Service being provided to that Client.

2.1.3. Person may be classified as more than one category of Client

An Authorised Firm may classify a Person as belonging to different categories of Client in respect of:

(a) a specific Financial Product, Financial Service, or Transaction; or

(b) different types of Financial Product or Transaction,

which are to be provided to, or carried out on behalf of, that Person.

2.2. Retail Clients

2.2.1. Classification as a Retail Client

An Authorised Firm must classify as a Retail Client any Client that is not a Professional Client or a Market Counterparty.

2.2.2. Authorised Firm may choose to treat any Person as a Retail Client

An Authorised Firm may choose to provide Financial Products or Financial Services to any Person as a Retail Client simply by classifying that Person as a Retail Client. If the Authorised Firm classifies the Person as a Retail Client in this way, it will not be required to assess whether that Person would otherwise be classified as a Professional Client or a Market Counterparty.

2.3. Professional Clients

2.3.1. Classification as a Professional Client

An Authorised Firm may classify a Person as a Professional Client if that Person:

(a) meets the requirements to be a Deemed Professional Client; or

(b) meets the requirements to be an Assessed Professional Client, in accordance with COB 2.5.1 or 2.5.5, provided that Person has not been classified as a Retail Client in accordance with COB 2.6.

2.4. Deemed Professional Clients

2.4.1. Requirements to be a Deemed Professional Client

For the purposes of COB 2.3.1, each of the following entities is a Deemed Professional Client unless it is a Market Counterparty or is given a different classification under COB 2:

(a) a national or regional government;

(b) a public body that manages public debt;

(c) a central bank;

(d) an international or supranational institution (such as the World Bank, the International Monetary Fund, or the European Investment Bank) or other similar international organisation;

(e) an Authorised Firm, or any other authorised or regulated financial institution, including a bank, securities firm or insurance company;

(f) an Authorised Market Institution, or any other authorised or regulated exchange, trading facility, central securities depository, or clearing house;

(g) a Collective Investment Scheme or its management company, or any other authorised or regulated collective investment undertaking or the management company of such an undertaking;

(h) a pension fund or the management company of a pension fund;

(i) a commodity dealer or a commodity derivatives dealer;

(j) a Large Undertaking as specified in COB 2.4.2;

(k) a Body Corporate whose shares are listed or admitted to trading on any exchange of an IOSCO member country;

(l) a trustee of a trust which has, or had during the previous 12 months, assets of at least USD 10 million; or

(m) any other institutional investor whose main activity is to invest in financial instruments, including an entity dedicated to the securitisation of assets or other financial transactions.

2.4.2. Large Undertakings

A Person is a Large Undertaking for the purposes of COB 2.4.1(j) if it met, as at the date of its most recent financial statements, at least two of the following requirements:

(a) it has total assets of at least USD 20 million on its balance sheet;

(b) it has a net annual turnover of at least USD 40 million; or

(c) it has own funds of at least USD 2 million.

2.5. Assessed Professional Clients

2.5.1. Assessed Professional Clients: Individual Clients

For the purposes of COB 2.3.1, an Authorised Firm may treat an individual Client as an Assessed Professional Client if:

(a) the Client has net assets of at least USD 1 million; and

(b) either:

(i) the Authorised Firm assesses the Client, on reasonable grounds, to have sufficient experience and understanding of relevant Financial Products, Financial Services, Transactions and any associated risks; or

(ii) the Client works or has worked in the previous two years in an Authorised Firm or any other authorised or regulated financial institution, including a bank, securities firm or insurance company, in a position that requires knowledge of the type of Financial Products, Financial Services or Transactions envisaged; and

(c) the following procedure is followed:

(i) the Client must confirm in writing to the Authorised Firm that it wishes to be treated as a Professional Client either:

(1) generally;

(2) in respect of a specific Financial Product, Financial Service, or Transaction; or

(3) in respect of a type of Financial Product, Financial Service, or Transaction;

(ii) the Authorised Firm must give the Client a clear warning in writing setting out the protections that the Client may lose as a result of giving up its classification as a Retail Client; and

(iii) the Client must confirm in writing, in a separate document from the client agreement or other contract, that it is aware of the consequences of losing such protections.

Guidance: Meaning of an "individual"

For the purposes of COB 2.5.1, an "individual" means a Person who is a natural person and not an Undertaking.

2.5.2. Calculation of an individual's net assets

For the purposes of COB 2.5.1(a), the calculation of an individual Client's net assets:

(a) must exclude the value of the primary residence of the Client; and

(b) may include any assets held directly or indirectly by the Client.

2.5.3. Assessment of experience and understanding

For the purposes of the assessment required under COB 2.5.1(b)(i) and 2.5.6(a), an Authorised Firm must, where applicable, consider the following matters:

(a) the Person's knowledge and understanding of:

(i) the relevant Financial Products, Financial Services, and Transactions; and

(ii) any associated risks, either generally or in relation to a specific Financial Product, Financial Service, or Transaction;

(b) the length of time during which the Person has participated in financial market activity;

(c) the frequency with which the Person has carried out Transactions;

(d) the extent to which the Person has previously relied on professional financial advice;

(e) the size and nature of Transactions that have been undertaken by, or on behalf of, the Person in financial markets;

(f) the Person's relevant qualifications or training;

(g) the composition and size of the Person's portfolio of Investments;

(h) in the case of insurance Transactions, relevant experience in relation to similar Transactions to be able to understand the risks associated with such Transactions; and

(i) any other matters which the Authorised Firm considers relevant.

2.5.4. Legal structures or vehicles containing an individual's investment portfolio

An Authorised Firm may classify as an Assessed Professional Client a legal structure or vehicle, including an Undertaking, trust or foundation, that is set up solely for the purpose of managing the investment portfolio of an individual where that individual has been assessed as meeting the requirements in COB 2.5.1.

2.5.5. Individual joint account holders

An Authorised Firm may classify as a Professional Client an individual (the "joint account holder") who has a joint account with an individual assessed as meeting the requirements in COB 2.5.1 (the "primary account holder") if:

(a) the joint account holder is a Family Member of the primary account holder;

(b) the account is used for the purposes of managing Investments for the primary account holder and the joint account holder;

(c) the following procedure is followed:

(i) the joint account holder must confirm in writing to the Authorised Firm that investment decisions relating to the joint account are generally made for, or on behalf of, him by the primary account holder;

(ii) the joint account holder must confirm in writing to the Authorised Firm that he wishes to be treated as a Professional Client either:

(1) generally;

(2) in respect of a specific Financial Product, Financial Service or Transaction; or

(3) in respect of a type of Financial Product or Transaction;

(ii) the Authorised Firm must give the joint account holder a clear warning in writing setting out the protections that the joint account holder may lose as a result of giving up his classification as a Retail Client; and

(iii) the joint account holder must confirm in writing, in a separate document from the client agreement or other contract, that he is aware of the consequences of losing such protections.

2.5.6. Assessed Professional Clients: Undertakings

For the purposes of COB 2.3.1, an Authorised Firm may treat an Undertaking as an Assessed Professional Client if:

(a) the Authorised Firm assesses the Undertaking (which may involve assessing an individual or individuals authorised to make investment decisions on behalf of the Undertaking), on reasonable grounds, to have sufficient experience and understanding of the relevant Financial Products, Financial Services or Transactions and any associated risks; and

(b) the Undertaking has own funds of at least USD 1 million.

2.5.7. Other types of Undertaking

An Authorised Firm may also classify an Undertaking as an Assessed Professional Client if the Undertaking has:

(a) a Controller;

(b) a Holding Company;

(c) a Subsidiary (whether direct or indirect); or

(d) a joint venture partner,

that meets the requirements in COB 2.5.6 to be classified as an Assessed Professional Client.

2.5.8. Client no longer meeting the requirements to be a Professional Client

If an Authorised Firm becomes aware that a Client no longer meets the requirements to be classified as a Professional Client, the Authorised Firm must, as soon as possible, inform the Client that this is the case and, where appropriate, discuss with the Client the steps that the Authorised Firm and the Client may take to address the situation, which may include the Authorised Firm notifying the Client of its reclassification.

2.6. Reclassification of a Professional Client as a Retail Client

2.6.1. Obligation to notify Professional Client of right to be treated as a Retail Client

If an Authorised Firm provides services to Retail Clients and Professional Clients, it must, when first establishing a relationship with a Person as a Professional Client, notify that Person in writing of:

(a) that Person's right to be classified as a Retail Client;

(b) the higher level of protection available to Retail Clients; and

(c) the period of time within which the Person may choose to be classified as a Retail Client.

If the Person does not choose to be classified as a Retail Client within the time specified by the Authorised Firm, the Authorised Firm may classify that Person as a Professional Client.

2.6.2. Authorised Firm not providing services to Retail Clients

If an Authorised Firm does not provide services to Retail Clients, it must inform its Clients of this fact and any relevant consequences.

2.6.3. Professional Client that asks to be treated as a Retail Client

If a Professional Client makes a request to the Authorised Firm to be treated as a Retail Client, the Authorised Firm must classify it as a Retail Client, unless the Authorised Firm does not provide services to Retail Clients.

Guidance: Request to an Authorised Firm that does not provide services to Retail Clients

An Authorised Firm that does not provide services to Retail Clients may receive a request from a Professional Client asking to be classified as a Retail Client. If the nature of the Client or the level of protection that it requires are such that it no longer meets the requirements to be a Professional Client, then the Authorised Firm should cease providing services to that Client.

2.7. Market Counterparties

2.7.1. Classification as a Market Counterparty

An Authorised Firm may classify a Person as a Market Counterparty, unless and to the extent that Person is given a different classification under this chapter COB 2, if that Person meets the requirements to be:

(a) a Deemed Professional Client; or

(b) an Assessed Professional Client and is the subsidiary of a Holding Company that is a Deemed Professional Client by virtue of being a Large Undertaking falling within COB 2.4.1(j),

provided that the arrangement meets the conditions in COB 2.7.2.

2.7.2. Requirement for confirmation by the Client

In order for an Authorised Firm to classify a Person as a Market Counterparty, the Authorised Firm must ensure that:

(a) the Person has been given prior written notification of its classification as a Market Counterparty; and

(b) the Person has not requested to be classified other than as a Market Counterparty within the time specified in the notification.

2.8. Trusts and Funds

2.8.1. Trusts

If an Authorised Firm intends to provide Financial Products or Financial Services to a trust, it must, unless otherwise provided in COB, treat the trustee of the trust, and not the beneficiaries of the trust, as its Client.

2.8.2. Funds

If an Authorised Firm provides a Financial Product or Financial Service to a Fund that does not have a separate legal personality, that Fund will be the Client of the Authorised Firm.

2.9. Agent as Client

2.9.1. General application of the "agent as client" rule

Subject to COB 2.9.2, if an Authorised Firm is aware that a Person (the "agent"), with or for whom it is intending to provide a service is acting as an agent for another Person (the "underlying client") in relation to that service, then the Authorised Firm must treat the agent as its Client in respect of the service.

2.9.2. Exclusion from the "agent as client" rule

The underlying client is treated, for the purposes of these Rules, as the Client of the Authorised Firm in respect of the service, if:

(a) the Authorised Firm has agreed with the agent in writing to treat the underlying client as its Client; or

(b) the agent is neither:

(1) another Authorised Firm; or

(2) an Authorised Market Institution,

and the main purpose of the arrangements between the parties is the avoidance of duties that the Authorised Firm would otherwise have to the underlying client.

2.9.3. Agreement in relation to more than one underlying client

If an Authorised Firm makes an agreement with the agent under COB 2.9.2(a) in relation to more than one underlying client, the Authorised Firm may rely upon the agent to act as a single point of contact for all communications between the Authorised Firm and all of the underlying clients for which the agent is acting. Accordingly, where the Authorised Firm communicates with the underlying clients, the Authorised Firm may send to, or receive from, the agent a single communication covering all of the underlying clients, without having to notify or obtain consent from each underlying client. However, where the Authorised Firm is required to provide any communications to any single underlying client, relating to matters specific to that underlying client, the Authorised Firm will still be required to provide to the agent the information specific to that underlying client, including the following:

(a) any risk warnings required by COB;

(b) trade confirmations for the purposes of COB 9; and

(c) periodic statements for the purposes of COB 9.

2.10. Record keeping

2.10.1. Requirement to keep records

An Authorised Firm must keep records of:

(a) the procedures which it has followed under COB 2, including any documents that evidence the Client's classification; and

(b) any notification sent to the Client under COB 2, together with evidence of despatch.

2.10.2. Length of recordkeeping requirement

The records in COB 2.10.1 must be kept for at least six years from the date on which the business relationship with a Client ended.

2.10.3. Date on which the business relationship ended

For the purposes of COB 2.10.2, an Authorised Firm may, if the date on which the business relationship with the Client ended is unclear, treat the date of the completion of the last transaction with the Client as the date on which the business relationship ended.

2.10.4. Obligation to provide access to the AFSA

An Authorised Firm must ensure that the AFSA has access to all of the records required under COB 2.10.1, including any records maintained by or at its head office or any other branch of the same legal entity, or a member of its Group. An Authorised Firm must notify the AFSA immediately if, for any reason, it is no longer able to provide access to these records.

3. COMMUNICATIONS WITH CLIENTS AND FINANCIAL PROMOTIONS

3.1. Application

3.1.1. General requirement

COB 3 applies to:

(a) an Authorised Firm communicating with a Client in relation to a Regulated Activity; and/or

(b) an Authorised Firm communicating or approving a Financial Promotion.

3.1.2. Territorial scope

This chapter COB 3 applies to:

(a) any communications of an Authorised Firm to a Client; and/or

(b) any Financial Promotions communicated or approved by an Authorised Firm,

in relation to a Regulated Activity carried on by an Authorised Firm operating within the jurisdiction of the AIFC as specified in Part 1 of the Framework Regulations.

3.2. Communications to be fair, clear and not misleading

3.2.1. General requirement

An Authorised Firm must ensure that:

(a) any communication with a Client in relation to a Financial Product or Financial Service; or

(b) any Financial Promotion that it communicates or approves,

is fair, clear and not misleading.

3.2.2. No avoidance of regulatory liability

Any communication by an Authorised Firm with a Client, or any Financial Promotion that it communicates or approves, must not attempt to limit or avoid any duty or liability it may have to that Client or any other Person under any applicable AIFC Rules or Regulations.

3.2.3. Information to be communicated directly to Client

Where a Rule in COB requires information to be provided to a Client, the Authorised Firm must provide that information directly to the Client and not to another Person, unless it is on the written instructions of the Client.

Guidance: Meaning of "communication"

For the purposes of COB 3, a communication includes, but is not limited to, a Financial Promotion, a client agreement, terms of business, Financial Product terms and conditions, a mandate, power of attorney entered into for the purposes of a Financial Product or Financial Service and any other communication which relates in whole or in part to the provision of a Financial Product or Financial Service.

3.3. Financial Promotions

3.3.1. Prohibition on Financial Promotions

A Person must not make a Financial Promotion in relation to a Regulated Activity carried on an Authorised Firm licensed by the AFSA unless:

(a) the Person is an Authorised Firm;

(b) the content of the Financial Promotion is approved by an Authorised Firm; or

(c) the Financial Promotion is exempt under COB 3.3.3.

Persons who make a Financial Promotion falling within (a), (b) or (c) above shall be "Authorised Promoters" for the purposes of this COB 3.

3.3.2. Financial Promotion by a Representative Office

A Representative Office may make a Financial Promotion only in relation to a Financial Product or Financial Service offered both:

(a) in a jurisdiction other than the AIFC; and

(b) by a related party of the Representative Office.

3.3.3. Exempt Financial Promotions

For the purposes of COB 3.3.1(c), a communication is an exempt Financial Promotion if it is:

(a) directed at and capable of acceptance exclusively by a Person who is believed by the Person making the Financial Promotion, on reasonable grounds, to be a Professional Client or Market Counterparty;

(b) made to a Person as a result of an unsolicited request by that Person to receive the Financial Promotion;

(c) made or issued by or on behalf of a government or non-commercial government entity, including a central bank;

(d) made by a Person in the course of providing legal or accountancy services and may reasonably be regarded as incidental to and a necessary part of the provision of such services;

(e) included in a Prospectus approved by the AFSA in accordance with MAR; or

(f) included in any document required or permitted to be published under the Listing Rules.

3.3.4. Other exclusions from the Financial Promotions Prohibition

A Person does not breach the Financial Promotions Prohibition if:

(a) the Person acts as a mere conduit for the making of the Financial Promotion, such as:

(i) a newspaper or magazine;

(ii) a website carrying third-party banner advertisements;

(iii) a postman or courier;

(iv) a person paid to hand out promotional material to the public and an event venue,

unless in each case that Person created the Financial Promotion; or

(b) the Financial Promotion is not made for a commercial or business purpose.

3.3.5. Content of a Financial Promotion

An Authorised Promoter must ensure that any Financial Promotion that it communicates or approves contains the information in Schedule 5.

3.3.6. Financial Promotions included in other communications

If an Authorised Promoter communicates information to a Client (whether in a document required by these Rules or otherwise), the Person must not include or embed a Financial Promotion in the communication in a way that obscures:

(a) the objectives or purpose of the communication; or

(b) the nature or purpose of the Financial Promotion.

3.3.7. Withdrawal of a financial promotion

If an Authorised Promoter becomes aware that a Financial Promotion that it has previously communicated or approved does not comply or no longer complies with this Rule, it must ensure that the Financial Promotion is withdrawn as soon as practicable by either:

(a) ceasing to make the Financial Promotion and telling any other Person known to be relying on it that the promotion is withdrawn; or

(b) withdrawing its approval and telling any Person known to be relying on it that the promotion is withdrawn.

3.3.8. Restriction on communicating Financial Promotions

An Authorised Promoter that communicates or approves a Financial Promotion must ensure that:

(a) the Financial Promotion complies with any applicable AIFC laws, Rules or Regulations;

(b) any material statements of fact in the Financial Promotion are accurate and up to date;

(c) it does not distribute a Financial Promotion if it becomes aware that the Financial Product or Financial Service that is the subject of the Financial Promotion is in breach of legal or regulatory requirements;

(d) any Financial Promotion intended for Professional Clients and/or Market Counterparties is not communicated to any persons who are not Professional Clients and/or Market Counterparties, as appropriate;

(e) no person communicates or otherwise uses the Financial Promotion on behalf of the Authorised Firm in a manner that amounts to a breach of the requirements in this Rule; and

(f) the Financial Promotion does not mention an approval or authorisation of the AFSA that has not been given in writing by the AFSA.

3.3.9. Financial promotions for Retail Clients

Before an Authorised Promoter makes or approves a Financial Promotion directed at Retail Clients, it must ensure that the Financial Promotion:

(a) is accurate and does not emphasise any potential benefits of a specified Financial Product without also giving a fair and prominent indication of any relevant risks;

(b) is sufficient for the needs of, and presented in a way that is likely to be understood by, the average member of the group to whom it is addressed or by whom it is likely to be received; and

(c) does not disguise, diminish or obscure important items, statements or warnings.

3.3.10. Comparisons and contrasts

If an Authorised Promoter makes or approves a Financial Promotion that contains a comparison or contrast, it must ensure that:

(a) the comparison is meaningful and presented in an objective and balanced way;

(b) the sources of the information used for the comparison are stated; and

(c) the key facts and assumptions used to make the comparison are included.

3.3.11. Past performance and forecasts

An Authorised Promoter must ensure that any information or representation in a Financial Promotion relating to past performance, or any future forecast based on past performance or other assumptions, which is provided to or targeted at Retail Clients:

(a) presents a fair and balanced view of the Financial Products or Financial Services to which the information or representation relates;

(b) identifies, in an easy to understand manner, the source of information from which the past performance is derived and any key facts and assumptions used in that context are drawn; and

(c) contains a prominent warning that past performance is not necessarily a reliable indicator of future results.

3.4. Unsolicited Real Time Financial Promotions

3.4.1. Application

COB 3.4 applies to an Authorised Promoter in relation to the communication to a Retail Client of an Unsolicited Real Time Financial Promotion.

Guidance: Non-application to Professional Clients and Market Counterparties

The restrictions on Unsolicited Real Time Financial Promotion in COB 3.4 do not apply to Professional Clients or Market Counterparties because it is expected that these categories of Client are better able to assess the risks of a Financial Product or Financial Service, including when engaging in interactive dialogue with a representative of an Authorised Firm.

3.4.2. Meaning of an Unsolicited Real Time Financial Promotion

A Financial Promotion is considered to be an Unsolicited Real Time Financial Promotion if it is made by way of interactive dialogue:

(a) which:

(i) was not initiated by the recipient of the Financial Promotion; and

(ii) does not take place in response to an express request from the recipient of the Financial Promotion; or

(b) in relation to which it was not clear from all the circumstances when the dialogue was initiated or requested, that during the course of the dialogue, communications would be made concerning the kind of controlled activities and controlled investments to which the communications in fact made relate.

Guidance: Examples of Unsolicited Real Time Financial Promotions

An Unsolicited Real Time Financial Promotion would normally be expected to involve or require an immediate response from the recipient, such as a personal visit, interactive voice communication (including a telephone conversation), or other interactive dialogue. Unsolicited Real Time Financial Promotions are considered to present higher risks to Retail Clients and therefore require additional safeguards compared with solicited and/or non-real time Financial Promotions.

Non-real time Financial Promotions include a letter, email, publication, website, television advertisement, or radio broadcast, which generally lack the interactive element and immediacy of a real time Financial Promotion.

3.4.3. No express request for a real time Financial Promotion

For these purposes, a Person is not to be treated as expressly requesting a real time Financial Promotion:

(a) because he omits to indicate that he does not wish to engage in any or any further dialogue; or

(b) because he agrees to standard terms that state that such dialogue will take place, unless he has signified clearly that, in addition to agreeing to the terms, he is willing for them to take place.

If the dialogue is initiated or requested by a recipient (R), it is treated as also having been initiated or requested by any other person to whom it is made at the same time as it is made to R if that other recipient is a Family Member of R or expected to engage in any investment activity jointly with R.

3.4.4. Exemption for image advertising

COB 3.4 does not apply if the Financial Promotion consists only of:

(a) the name of the Authorised Promoter;

(b) a logo or other image associated with the Authorised Promoter;

(c) a contact point; and

(d) a reference to the types of Financial Product or Financial Service provided by the Authorised Promoter, or to its fees.

3.4.5. Restriction on Unsolicited Real Time Financial Promotions

An Authorised Promoter must not make an Unsolicited Real Time Financial Promotion unless the recipient is an existing Client of the Authorised Promoter and the relationship is such that the Authorised Promoter reasonably believes that:

(a) the recipient understands the risks associated with the relevant Investment; and

(b) the recipient would expect to be contacted by the Authorised Promoter for the purpose of communicating Financial Promotions in real time; and

3.4.6. Restriction on nature of Investments

An Unsolicited Real Time Financial Promotion must only relate to an Investment that is:

(a) a government Security; or

(b) a listed Security that is regularly traded on an Authorised Investment Exchange or other authorised and regulated exchange,

except that it is not permitted to communicate a Financial Promotion in real time in relation to Warrants or any Security that embeds a derivative.

3.4.7. Procedure for Unsolicited Real Time Financial Promotions

An Authorised Promoter must not communicate an Unsolicited Real Time Financial Promotion to a Client who is not at the Authorised Promoter's premises, unless the Person communicating it:

(a) only does so at an appropriate time of the day;

(b) identifies himself and the firm he represents at the outset and makes clear the purpose of the communication;

(c) clarifies if the Client would like to continue with or terminate the communication, and terminates the communication at any time that the Client requests it; and

(d) gives a contact point to any Client with whom he arranges an appointment.

3.5. Record keeping

3.5.1. Record keeping requirement

An Authorised Promoter must keep a record of each Financial Promotion that it makes or approves.

3.5.2. Content of records

The record must include at least the following detail:

(a) the name of the senior Employee who reviewed the Financial Promotion;

(b) the date the Financial Promotion was made or approved;

(c) if the Financial Promotion was in writing, a copy of the Financial Promotion; and

(d) if the Financial Promotion was not in writing, details of the Financial Promotion and its outcome, including a note stating if the Client requested the termination of a real time Financial Promotion.

The Authorised Promoter must keep the records for at least 6 years after the Financial Promotion is no longer made.

4. KEY INFORMATION AND CLIENT AGREEMENT

4.1. Application

This chapter applies to an Authorised Firm intending to carry out Regulated Activities with or for a Client.

The obligation in this section to enter into a written client agreement does not apply to an Authorised Firm when it is carrying on a Regulated Activity with or for a Professional Client or Market Counterparty, but the Authorised Firm must still provide specified key information to a Professional Client or Market Counterparty, in accordance with this chapter, before providing services.

This chapter does not apply to an Authorised Firm when it is:

(a) carrying out the Regulated Activity of providing financing using Shari'ah- compliant Financial Contracts; or

(b) a Fund Manager offering the Units of a Fund it manages.

Guidance: Other information requirements

Other information requirements will apply to the provision of Shari'ah-compliant Financial Contracts, which are in the AIFC IFR Rules. Similarly, specific disclosure requirements apply to the Offering Materials provided in relation to Units in a Fund, as set out in the AIFC CIS Rules.

4.2. Client agreement

4.2.1. Requirement to enter into a client agreement

Subject to COB 4.2.3, an Authorised Firm must not carry on a Regulated Activity with or for a Person unless:

(a) the Authorised Firm has provided to that Person the key information specified in Schedule 2 in good time before the service is provided to enable the Person to make an informed decision relating to the relevant Regulated Activity; and

(b) if the Person is classified as a Retail Client, there is a written client agreement entered into between the Authorised Firm and that Person.

Guidance: Meaning of "key information"

In this COB 4.2, "key information" means the information specified in Schedule 2.

4.2.2. Relationship between key information and client agreement

An Authorised Firm may either:

(a) provide a person with a copy of the proposed client agreement containing the key information; or

(b) provide the key information separately from the client agreement.

4.2.3. Where it is impracticable to provide key information or enter into a client agreement

An Authorised Firm may provide a Financial Product or Financial Service to a Retail Client or Professional Client without having to provide key information and/or enter into a client agreement in accordance with COB 4.2.1 where it is impracticable to do so, provided that the Authorised Firm:

(a) first explains to the Client why it is impracticable to enter into a client agreement; and

(b) enters into a client agreement as soon as practicable thereafter.

Guidance: Example of where it may be impracticable

It may be impracticable to provide the key information or enter into a client agreement if a Client requests the Authorised Firm to execute a transaction on a time-critical basis.

4.2.4. Records of explanation to the Client

Where an Authorised Firm has given the explanation referred to in COB 4.2.3(a) verbally, it should maintain sufficient records to enable the Authorised Firm to demonstrate to the AFSA that it has provided that explanation to the Client.

4.3. Content of client agreement

If the Authorised Firm is required to enter into a written client agreement with the Client, the agreement must set out the essential rights and obligations of both parties.

4.4. Content of key information

Schedule 2 sets out:

(a) the core key information that must be included in every client agreement, or otherwise provided to a Client in accordance with COB 4.2.2 (and specifies that, more information is to be disclosed to Retail Clients than to Professional Clients or Market Counterparties); and

(c) additional key information that must be included in any client agreement or otherwise provided to a Client in relation to certain activities.

4.5. Record keeping

The Authorised Firm should retain a copy of the client agreement for a period of six years from the date on which the relationship with the relevant Client has terminated.

5. CONDUCT OF INVESTMENT BUSINESS

5.1. Application

5.1.1. Application of requirement to assess suitability

COB 5.2 applies where an Authorised Firm:

(a) Advises on Investments; or

(b) Manages Investments.

5.1.2. Application of requirement to assess appropriateness

COB 5.3 applies where an Authorised Firm is:

(a) Dealing in Investments as Principal;

(b) Dealing in Investments as Agent, or

(c) receiving and transmitting orders for a Client,

and is not Advising on Investments or Managing Investments.

Guidance: Receiving and transmitting orders

An Authorised Firm carries on this activity of "receiving and transmitting orders" if it both receives an order from a Client for a transaction in an Investment and transmits it to another party, such as a broker, for execution or for onward transmission to the executing broker or venue.

5.1.3. Market Counterparties

COB 5 does not apply where the Authorised Firm provides a Financial Service to a Market Counterparty.

5.2. Suitability assessment

5.2.1. Requirement to assess suitability

When Advising on Investments or Managing Investments for a Client, an Authorised Firm must take reasonable steps to ensure that any recommendation or decision to trade on behalf of a Client is suitable for the Client.

5.2.2. Nature of suitability assessment

When making its recommendation or decision to trade on behalf of a Client, the Authorised Firm must assess the Client's:

(a) investment objectives;

(b) financial situation; and

(c) knowledge and experience in relation to the type of Investment or Investment Service concerned,

so as to ensure that the recommendation or decision to trade is suitable for that particular Client.

5.2.3. Investment objectives

The Authorised Firm must assess the Client's investment objectives by, where appropriate, considering the length of time for which the Client intends to hold Investments, and taking into account the Client's risk profile and tolerance for risk, and the purpose of the relevant Investment.

5.2.4. Financial situation

The Authorised Firm must assess the Client's financial situation by, where appropriate, requesting information on the source and extent of the Client's income, assets, Investments, Real Property, and any regular financial commitments or liabilities.

5.2.5. Knowledge and experience

The Authorised Firm must consider the Client's knowledge and experience by taking into account, to the extent appropriate for the circumstances:

(a) the types of Investment, Investment Service and Transaction with which the Client is familiar;

(b) the nature, volume, and frequency of the Client’s Transactions in Investments and the period over which they have been carried out;

(c) the level of education, and profession or relevant former profession of the Client; and

(d) the Client's knowledge and understanding of any associated risks.

5.2.6. Insufficient information

If an Authorised Firm does not obtain sufficient information to assess suitability for the purposes of COB 5.2.2, the Authorised Firm must not recommend an Investment or Investment Service, or make a decision to trade.

5.2.7. Professional Clients

An Authorised Firm may assume, when making a recommendation, or decision to trade, for or on behalf of a Professional Client, that:

(a) the Client has the necessary knowledge and experience for the purposes of COB 5.2.2(c); and

(b) if the Client is a Deemed Professional Client, the Client has an adequate financial situation and the necessary knowledge and experience for the purposes of COB 5.2.2(b) and (c).

5.2.8. Firms providing trust services

An Authorised Firm Providing Trust Services does not have to assess the Client's knowledge and experience or risk tolerance when assessing the suitability of the service to a particular Client, because these considerations are not considered to be relevant to the Regulated Activity of Providing Trust Services.

5.2.9. Suitability reports

When Advising on Investments for a Retail Client, an Authorised Firm must provide the Client with a suitability report that must include:

(a) an outline of the advice given;

(b) an explanation of why the recommendation is suitable, including how it meets the client's objectives and personal circumstances; and

(c) a statement bringing to the client's attention the need for periodic review of suitability (where relevant).

5.3. Appropriateness assessment

5.3.1. Requirement to assess appropriateness

When Dealing in Investments as Principal, Dealing in Investments as Agent, or receiving and transmitting orders for a Client, an Authorised Firm must ask for information about the Client's knowledge and experience in relation to the type of Investment or Investment Service concerned to assess whether the Investment or Investment Service are appropriate for that Client.

Guidance: Client engaged in a course of dealings

If a Client engages in a course of dealings involving a specific type of Investment or Investment Service through the services of an Authorised Firm, the Authorised Firm is not required to make a new assessment on the occasion of each separate Transaction. An Authorised Firm complies with COB 5.3 provided that it makes the necessary appropriateness assessment before providing the relevant service.

5.3.2. Exemption from requirement to assess appropriateness

An Authorised Firm is not required to assess appropriateness if:

(a) the service provided to the Client:

(i) only consists of the execution and/or the reception and transmission of orders;

(ii) relates to the Investments specified in COB 5.3.3 below; and

(iii) is provided at the initiative of the Client;

(b) the Client has been clearly informed that in the provision of this service the Authorised Firm is not required to assess the appropriateness of the Investment or Investment Service provided or offered and that therefore he does not benefit from the protection of the rules on assessing appropriateness; and

(c) the Authorised Firm complies with its obligations in relation to conflicts of interest.

5.3.3. Exempt Investments for the purposes of COB 5.3.2

The Investments that are exempted in accordance with COB 5.3.2(a)(ii) are:

(a) Shares admitted to trading on an Authorised Investment Exchange or other authorised and regulated exchange; or

(b) bonds or other forms of securitised debt (excluding those bonds or securitised debt that embed a Derivative); or

(c) other non-complex Investments.

Guidance: Non-complex Investments

An Investment is non-complex if it satisfies the following criteria:

(a) it is not a Derivative or a Security giving the right to acquire or sell a transferable security or giving rise to a cash settlement determined by reference to transferable Securities, currencies, interest rates or yields, commodities or other indices or measures;

(b) there are frequent opportunities to dispose of, redeem, or otherwise realise the Investment at prices that are publicly available to the market participants and that are either market prices or prices made available, or validated, by valuation systems independent of the issuer;

(c) it does not involve any actual or potential liability for the client that exceeds the cost of acquiring the Investment; and

(d) adequately comprehensive information on its characteristics is publicly available and is likely to be readily understood so as to enable the average Retail Client to make an informed judgment as to whether to enter into a Transaction in that Investment.

5.3.4. Nature of appropriateness assessment

The Authorised Firm must assess whether the Client has the necessary knowledge and experience in order to understand the risks involved in relation to the relevant Investment or Investment Service.

5.3.5. Client's knowledge and experience

When assessing the appropriateness of the Investment or Investment Service for the Client, the Authorised Firm must consider the Client's knowledge and experience by taking into account, to the extent appropriate for the circumstances:

(a) the types of Investment Service, Investment and Transaction with which the Client is familiar;

(b) the nature, volume, and frequency of the Client’s Transactions in Investments and the period over which they have been carried out;

(c) the level of education, and profession or relevant former profession of the Client; and

(d) the Client's knowledge and understanding of any associated risks.

5.3.6. Professional Clients

An Authorised Firm may assume that a Professional Client has the necessary knowledge and experience for the purposes of COB 5.3.4.

5.3.7. Warning the Client

If an Authorised Firm considers that the Investment Service, Investment or Transaction is not appropriate for the Client, it must issue a warning to the Client that it is not considered to be appropriate.

5.4. Information about the Client

An Authorised Firm must take reasonable steps to ensure the information it holds about a Client is at all times accurate, complete and up to date.

5.5. Record keeping

The Authorised Firm must keep a record of its suitability reports for a minimum of six years. It is not required to keep a record of the suitability report if the Client does not proceed with the recommendation.

5.6. Packaged products—additional disclosure

5.6.1. Product disclosure document—preparation

An Authorised Firm must prepare a Product Disclosure Document for each Packaged Product it produces.

5.6.2. Product disclosure document—provision requirement

(1) An Authorised Firm (the selling firm) must not sell, or arrange for the sale of, a Packaged Product to a Retail Client unless it has given the Client, not later than a reasonable time before the Client becomes contractually bound in relation to the sale of the Packaged Product:

(a) a Product Disclosure Document for the Packaged Product; or

(b) if the Packaged Product was produced by another Authorised Firm—a Product Disclosure Document that complies with subrule (2); or

(c) if the Packaged Product was produced by a person in a jurisdiction other than the AIFC—disclosure documentation that complies with subrule (3).

(2) If the Packaged Product was produced by another Authorised Firm, the Product Disclosure Document given to the Retail Client under subrule (1) (b):

(a) must be the Product Disclosure Document prepared by the other Authorised Firm; but

(b) must prominently display each of the following:

(i) the name of the selling firm;

(ii) either the address of the selling firm or a contact point from which the address is available;

(iii) the selling firm's regulatory status.

(3) If the Packaged Product was produced by a person in a jurisdiction other than the AIFC, the disclosure documentation given to the Retail Client under subrule (1) (c) complies with this subrule if:

(a) the selling firm is satisfied on reasonable grounds that:

(i) the disclosure documentation was prepared by the person in accordance with the requirements of the law of the other jurisdiction; and

(ii) those requirements are broadly equivalent to the requirements of this division; and

(b) the disclosure documentation prominently displays:

(i) the information mentioned in subrule (2) (b) (i) to (iii); and

(ii) if the Packaged Product is a Life Policy or a Family Takaful Contract:

(A) a statement to the effect that the person who produced the Packaged Product (the insurer or the Takaful Operator) is not authorised or regulated by the AFSA; and

(B) an explanation of any differences between the cancellation rights (if any) applying in relation to the Packaged Product (including the length of any period to exercise the rights) and those that would be provided under these rules if the insurer or the Takaful Operator as the case may be, were an Authorised Firm; and

(C) a warning to the effect that the claims handling procedures applying in relation to the Packaged Product may differ from those provided under these rules.

(4) If a Life Policy or a Family Takaful Contract sold by an Authorised Firm to a Retail Client is varied and, because of the variation, the Client has a right to cancel the relevant Life Policy or the Family Takaful Contract as the case may be, under COB 19.2.2 (Variations of Life Policies or Family Takaful Contract —right to cancel), the firm must:

(a) update the document that it gave the Client under subrule (1) in relation to the Life Policy or the Family Takaful Contract to reflect the variation; and

(b) give a copy of the updated document to the Client.

Guidance for COB 5.6.2 (2) and (3)

1 An Authorised Firm may comply with COB 5.6.2 (2) (b) or (3) (b) by including the required information in a sticker or wrapper attached to the Product Disclosure Document or disclosure documentation.

2 The purpose of COB 5.6.2 (3) is to allow an Authorised Firm to give disclosure documentation that meets the disclosure objectives of a Product Disclosure Document, even if the form or content is different in matters of detail from that required by this division. For example, an Authorised Firm could provide a disclosure document that uses a projection or illustration prepared in accordance with rules prescribed by an overseas regulator, if these ensure a fair projection based on objective and reasonable assumptions.

5.6.3. Product disclosure document—form

An Authorised Firm must ensure that a Product Disclosure Document given by it to a Retail Client for a Packaged Product:

(a) is produced and presented to at least the same quality and standard as the sales or marketing material used by it to promote the Packaged Product; and

(b) is separate from any other material given to the Client; and

(c) displays the product provider's brand at least as prominently as any other brand displayed; and

(d) does not disguise, diminish or obscure important items, statements or warnings.

5.6.4. Product disclosure document—content

(1) An Authorised Firm must ensure that a Product Disclosure Document prepared by it for a Packaged Product includes each of the following:

(a) the firm's name;

(b) either the address of the firm or a contact point from which the address is available;

(c) the firm's regulatory status;

(d) the following statement prominently displayed:

> 'The Astana Financial Services Authority is the independent financial services regulator for the Astana International Financial Centre. It requires us, [*insert Authorised Firm's name*], to give you this important information to help you to decide whether this [insert 'product' or product name] is right for you. You should read this document carefully so that you understand what you are buying, and then keep it safely for future reference.';

(e) a description, appropriate for the Packaged Product's complexity, of its nature, its particular characteristics, how it works, and any limitations or minimum standards that apply;

(f) enough information about the material benefits and risks of buying the product for a Retail Client to be able to make an informed decision about whether to buy;

(g) the availability of the firm's internal complaint-handling procedures and how a complaint may be made to the firm;

(h) whether there is a right to cancel and, if there is a right to cancel, the consequences of exercising this right, and enough details to enable the right to be exercised by a Retail Client.

(2) An Authorised Firm must not, in a Product Disclosure Document prepared by it, do or say (or fail to do or say) anything that might reasonably lead a Retail Client to be mistaken about the product provider's identity.

5.6.5. Life policies and Family Takaful Contracts —additional content

(1) An Authorised Firm must ensure that a Product Disclosure Document prepared by it for a Life Policy or for a Family Takaful Contract, intended to be sold to a Retail Client includes the following:

(a) a definition of each benefit and option;

(b) the term of the contract;

(c) details of how the contract may be terminated;

(d) how and when premiums are payable;

(e) details of how bonuses are calculated and distributed, including the following information:

(i) how profits that are allocated for the payment of bonuses are distributed;

(ii) whether increased benefits resulting from bonuses are payable (subject to any adjustments) even if the contract is terminated early by either party to the contract;

(iii) if bonuses increase benefits—whether increases are likely to be made each year or only when the policy amounts become payable to the policyholder;

(iv) the basis on which bonuses are distributed to policyholders;

(v) whether policies share equitably in the allocation of all the profits of the long-term fund, or only certain elements of the profits;

(f) an illustration prepared in accordance with COB 5.6.6 (Life policies or Family Takaful Contracts —illustrations), except if the benefits of the Life Policy or Family Takaful Contract do not depend on future investment returns;

(g) information about charges and expenses that, subject to subrule (2), includes:

(i) a description of the nature of the charges and expenses the Retail Client will, or may be expected to, pay; and

(ii) 2 tables (one for the lower projection, and the other for the higher projection, calculated on the basis of a rate of return mentioned in COB 5.6.6 (2)), each prepared in accordance with COB 5.6.7 (Life policies—effect of charges and expenses table) illustrating the effect of charges and expenses on the policy;

(h) information on premiums or Takaful Contributions for each benefit, including, if appropriate, both main benefits and supplementary benefits;

(i) if the Retail Client has been charged for rider benefits or increased underwriting benefits—the amount of premiums charged for those benefits;

(j) if the policy is a unit-linked policy—a definition of the units to which benefits are linked and the nature of the underlying assets.

(2) If the Authorised Firm is exempt from including an illustration mentioned in rule (1) (f) because the benefits of the Life Policy or Family Takaful Contract do not depend on future investment returns, the Product Disclosure Document prepared by it for the Life Policy or Family Takaful Contract must include:

(a) an indication of guaranteed benefits, surrender benefits, paid-up values and any other benefits (whichever are applicable) under the policy; and

(b) the likely amount, and a general description, of the charges and expenses the Retail Client will, or may be expected to, pay under the policy.

5.6.6. Life policies or Family Takaful Contract —illustrations

(1) For COB 5.6.5 (1) (f), the illustration must indicate how the main terms of the Life Policy or Family Takaful Contract, as the case may be, apply to the Retail Client and contain projections of the final surrender value of the policy calculated in accordance with COB 5.6.8 (Life policies or Family Takaful Contract —projection calculation rules).

(2) The illustration must contain at least 2 projections, with:

(a) a lower projection calculated on the basis of a rate of return to be set at no more than 5%; and

(b) a higher projection calculated on the basis of a rate of return that the Authorised Firm reasonably expects the Life Policy or Family Takaful Contract to achieve, but that, in any event, must be no more than 9%.

5.6.7. Life policies or Family Takaful Contracts —effect of charges and expenses tables

(1) For COB 5.6.5(1) (g), each table illustrating the effect of charges and expenses on the policy must include the contents of the following table (The Effects of Charges and Expenses Table).

The Effects of Charges and Expenses Table

WARNING—if you cash in early you could get back less than you have paid in
This table illustrates what you would get back from your investment if it grew at x% (*insert rate of return*) a year. These figures are not guaranteed and are only intended to demonstrate the effect of charges and expenses on your investment based on different assumptions on the growth of your investments.

At end of Year	**Total paid in to date**	**Effect of charges and expenses to date**	**What you might get back**
	KZT	**KZT**	**KZT**
1			
2			
3			
4			
5			
10			
15			

(2) An Authorised Firm may change the Effects of Charges and Expenses Table so far as necessary to reflect the nature and effect of the charges and expenses inherent in the particular product.

(3) In completing the **Effects of Charges and Expenses Table**, the Authorised Firm must:

(a) include figures for the first 5 years of the Life Policy or the Family Takaful Contract; and

(b) if the policy is a whole-Life Policy or Family Takaful Contract or the illustration covers more than 25 years—include figures for the 10th and every subsequent 10th year of the policy's term; and

(c) if the policy is neither a whole-Life Policy nor a Family Takaful Contract and the illustration covers 25 years or less—include figures for the 10th and every subsequent 5th year of the policy's term; and

(d) include:

(i) the final year of the policy; or

(ii) for a whole-Life Policy or a single premium Life Policy without a fixed term—an appropriate end date for the policy; and

(e) if there is discontinuity in the trend of surrender values—include the appropriate intervening years; and

(f) in the 'Total paid in to date' column, show cumulative totals of contributions paid to the end of each relevant year; and

(g) in the 'Effect of charges and expenses to date' column, show the figure calculated by taking the accumulated value of the fund without taking charges and expenses into account and then subtracting from that figure the figure in the 'What you might get back' column for the same year; and

(h) in the 'What you might get back' column, show the projection of the surrender value for the policy calculated in accordance with COB 5.6.8 (Life policies—projection calculation rules) and accumulated at the rate of return selected by the firm for the lower or higher projection mentioned in COB 5.6.6 (2) (Life policies—illustrations), as the case requires; and

(i) if the Retail Client is entitled to exercise, and has chosen or expressed the intention to exercise, the right to make partial surrenders—include a column headed 'Withdrawals' showing the cumulative total of the withdrawals.

(4) The Authorised Firm must include a statement at the bottom of the table expressing the effect of charges and expenses on the Life Policy or Family Takaful Contract in terms of a reduction in the rate of return.

Guidance

The reduction in the rate of return (***A***) may be calculated as follows:

A = B – C

where:

B is the rate of return selected by the firm for the lower or higher projection mentioned in COB 5.6.6(2), as the case requires.

C is the annual rate of return worked out by:

(a) carrying out a projection using B; and

(b) then calculating the annual rate of return (rounded to the nearest tenth of 1%) required to achieve the same projection value if charges and expenses were not taken into account.

5.6.8. Life policies or Family Takaful Contract —projection calculation rules

(1) For COB 5.6.6 (Life policies—illustrations) and COB 5.6.7 (Life policies—effect of charges and expenses table), any projection of the surrender value of a Life Policy or Family Takaful Contract used in an illustration or an Effects of Charges and Expenses Table must be calculated in accordance with a methodology and set of assumptions prepared and approved by the Approved Actuary of the AIFC Insurer preparing the Product Disclosure Document.

(2) In preparing the methodology and assumptions mentioned in subrule (1), the Approved Actuary must have regard to relevant professional standards and any requirements of this division.

(3) A projection must be specific to the Retail Client and be calculated on the basis of the Client's age and sex, the amount assured, the premium and other factors material to the Life Policy or the Family Takaful Contract.

(4) However, if a projection is calculated for the purposes of a financial promotion or in relation to a single premium Life Policy, it must be calculated on the basis of factors that represent the average member of the group to whom it is directed or by whom it is likely to be received.

(5) In calculating the projection, contributions must be net of any rider benefits and extra premiums charged for increased underwriting benefits.

5.6.9. Life policies or Family Takaful Contracts —provision of policy document

If an Authorised Firm finalises a Life Policy or a Family Takaful Contract with or for a Client, the firm must, immediately after finalising the policy, give the Client, in a durable medium, a policy document containing all the terms of the policy.

5.6.10. Life policies or Family Takaful Contracts —recordkeeping

(1) An Authorised Firm must ensure that a copy of a Product Disclosure Document given by it to a Retail Client in relation to a Life Policy or a Family Takaful Contract is made and kept for at least 6 years, unless the Client does not take out the policy.

(2) An Authorised Firm must ensure that a copy of any other disclosure documentation given by it to a Retail Client in relation to a Life Policy or a Family Takaful Contract is made and kept for at least 6 years, unless the Client does not take out the policy.

(3) An Authorised Firm must ensure that a record of the methodology and set of assumptions prepared and approved by the Approved Actuary for COB 5.6.8 (1) for the firm is made and kept for at least 6 years after the day the methodology or set of assumptions is replaced by a new methodology or set of assumptions.

(4) An Authorised Firm must ensure that a copy of each policy document given to a Client for a Life Policy or a Family Takaful Contract under COB 5.6.9 is kept for at least 6 years after the day the policy ends.

5.6.11. Takaful Contracts – Specific Disclosure requirements

(1) A Takaful Operator or an Insurance Intermediary or an Insurance Manager making a comparison between a Takaful Contract and conventional Contract of Insurance, in the course of offering a policy to their Client, must highlight the principal differences between these products as part of their marketing communications or promotional materials. These differences may relate to the following aspects, but are not limited to:

(a) presence of contractual right to claims or benefits or whether these are discretionary on the part of the firm;

(b) the basis on which benefits and surpluses are allocated to, and between policyholders or participants, as the case may be; and

(c) whether there is any future liability for policyholders or participants, either individually or collectively, to meet deficits in the policyholders' or participants' funds.

(2) Takaful Operators must ensure that, the participants in the Takaful funds operated by them are provided with clear information about the performance of the funds. The disclosures to meet this requirement must comply with relevant AAOIFI standards, in particular Standard 13 (Disclosure of Bases for Determining and Allocating Surplus or Deficit in Islamic Insurance Companies) and 12 (General Presentation and Disclosure in the Financial Statements of Islamic Insurance Companies).

(3) Takaful Operators must disclose to the participants in the Takaful Funds operated by them, the amount of Wakala fee and Mudaraba share of profits paid by the Takaful fund to the Takaful Operator, as well as the methodology for determining such amounts. In the case of Takaful Operators adopting Takaful models employing contracts other than Wakala or Mudaraba, the compensation paid by the Takaful Funds to the Takaful Operator and the relevant methodologies must be disclosed.

6. ORDER EXECUTION AND ORDER HANDLING

6.1. Best execution

6.1.1. Application

COB 6 applies to an Authorised Firm that executes orders for or on behalf of a Client.

The Rules in COB 6 do not apply to an Authorised Firm with respect to any transaction which:

(a) it undertakes with a Market Counterparty, except for COB 6.2.9;

(b) it carries out for the purposes of managing a Fund of which it is the Fund Manager; or

(c) is an Execution-Only Transaction.

Where an Authorised Firm executes an Execution-Only Transaction with or for a Client, the Authorised Firm is not relieved from providing best execution in respect of any aspect of that transaction which lies outside the Client's specific instructions.

6.1.2. Best execution obligation

Subject to COB 6.1.3, when an Authorised Firm executes any transaction with or for a Client in an Investment, it must take all sufficient steps to obtain the best possible result for the Client taking into account the information available, including the following factors:

(a) price;

(b) costs;

(c) speed;

(d) likelihood of execution and settlement;

(e) size;

(f) nature; and

(g) any other consideration relevant to execution.

6.1.3. Best execution with or for Retail Clients

When an Authorised Firm executes a transaction in an Investment for a Retail Client, the best possible result will be determined by reference to the price and other costs, including execution venue fees, clearing and settlement fees and any other fees paid to third parties involved in the execution of the order.

6.1.4. Specific instructions

When an Authorised Firm executes a transaction in accordance with specific instructions from the Client, it should be treated as having met its best execution obligation in relation to that part of the order covered by those instructions.

6.2. Client order handling

6.2.1. Application

The Rules in COB 6.2 do not apply to an Authorised Firm with respect to any transaction which:

(a) it undertakes with a Market Counterparty; or

(b) it carries out for the purposes of managing a Fund of which it is the Fund Manager.

6.2.2. General requirement

An Authorised Firm that executes orders on behalf of Clients must ensure that it has in place procedures that provide for the prompt, fair and expeditious execution of orders for a Client, relative to orders for itself or for other Clients.

6.2.3. General obligation in relation to orders for a Client

An Authorised Firm must satisfy the following conditions when executing orders for a Client:

(a) orders executed for Clients must be promptly and accurately recorded and allocated;

(b) comparable orders for Clients must be executed sequentially and promptly unless the characteristics of the order or prevailing market conditions make this impracticable, or the interests of the Client require otherwise;

(c) a Retail Client must be informed of any material difficulty relevant to the proper execution of orders promptly when the Authorised Firm becomes aware of the difficulty; and

(d) make and maintain a record of:

(i) the date and time of the allocation;

(ii) the relevant Investments;

(iii) the identity of each Client concerned; and

(iv) the amount allocated to each Client and to the Authorised Firm recorded against the intended allocation as required by (a).

6.2.4. Aggregation of orders

An Authorised Firm may aggregate an order for a Client with an order for other Clients or with an order for its own account only where:

(a) it is unlikely that the aggregation will operate to the disadvantage of any Client whose orders have been aggregated;

(b) the Authorised Firm has disclosed in writing to the Client that his order may be aggregated and that the effect of the aggregation may be to his disadvantage;

(c) the Authorised Firm has made a record of the intended basis of allocation and the identity of each Client before the order is effected; and

(d) the Authorised Firm has in place written standards and policies on aggregation and allocation which are consistently applied and should include the policy that will be adopted when only part of the aggregated order has been filled.

6.2.5. Allocation of Investments

Where an Authorised Firm has aggregated a Client order with an order for other Clients or with an order for its own account, and part or all of the aggregated order has been filled, it must:

(a) promptly allocate the Investments concerned;

(b) allocate the Investments in accordance with the stated intention; and

(c) ensure the allocation is done fairly and uniformly by not giving undue preference to itself or to any of those for whom it dealt.

6.2.6. Churning

An Authorised Firm must not execute a transaction for a Client in its discretion or advise any Client to transact with a frequency or in amounts to the extent that those transactions might be deemed to be excessive. The onus will be on the Authorised Firm to ensure that such Transactions were fair and reasonable at the time they were entered into.

6.2.7. Timely execution

Once an Authorised Firm has agreed or decided to enter into a transaction for a Client, it must do so as soon as reasonably practical. An Authorised Firm may postpone the execution of a transaction if it has taken reasonable steps to ensure that it is in the best interests of the Client.

6.2.8. Averaging of prices

An Authorised Firm may execute a series of transactions on behalf of a Client within the same trading day or within such other period as may be agreed in writing by the Client, to achieve one investment decision or objective, or to meet transactions which it has aggregated. If the Authorised Firm does so, it may determine a uniform price for the transactions executed during the period, calculated as the weighted average of the various prices of the transactions in the series.

6.2.9. Records of orders and transactions

When an Authorised Firm:

(a) receives a Client order or in the exercise of its discretion decides upon a transaction;

(b) executes a transaction; or

(c) passes a Client order to another Person for execution,

it must promptly make a record of the information set out in Schedule 1.

6.3. Voice and electronic communications

6.3.1. General requirement

An Authorised Firm must, subject to COB 6.3.4, take reasonable steps to ensure that it makes and retains:

(a) recordings of voice communications, including telephone conversations, other than communications where both parties are physically present; and

(b) copies of electronic communications,

when such communications are with a Client or with another Person in relation to a Transaction, including the receiving or transmitting of related instructions.

6.3.2. Notification to Clients

The Authorised Firm must notify new and existing Clients that relevant voice communications between the Authorised Firm and its Clients in relation to a Transaction will be recorded. The Authorised Firm is only required to inform its Clients once, prior to the provision of any Investment Service to a new Client or when this obligation applies for the first time in relation to an existing Client.

6.3.3. Privately owned equipment

An Authorised Firm must take all reasonable steps to prevent an Employee or contractor from making, sending, or receiving relevant voice and electronic communications on privately owned equipment which the Authorised Firm is unable to record or copy.

6.3.4. Exemption for non-specific communications

The obligation in COB 6.3.1 does not apply in relation to relevant voice and electronic communications which are not intended to lead to the conclusion of a specific Transaction and are general conversations or communications about market conditions.

6.3.5. Record keeping

The records retained under COB 6.3.1 must be:

(a) kept accessible, such that the Authorised Firm is able to demonstrate that all relevant records are capable of being promptly accessed;

(b) maintained in comprehensible form or capable of being promptly reproduced; and

(c) protected from unauthorised alteration.

6.3.6. Length of retention period

Recordings of relevant voice communications and copies of electronic communication recordings must be retained for a minimum of six months.

6.4. Direct Electronic Access

Where an Authorised Firm provides a Client (including a Market Counterparty) with direct electronic access to an Authorised Market Institution, the Authorised Firm must:

(a) establish and maintain policies, procedures, systems and controls to limit or prevent a Client from placing an order that would result in the position limits or credit limits being exceeded; and

(b) ensure that such policies, procedures, systems and controls remain appropriate and effective on an on-going basis.

7. CONFLICTS OF INTEREST

7.1. The general obligation

In accordance with Principle 8 of the Principles for Authorised Persons in GEN, an Authorised Firm must take all reasonable steps to ensure that conflicts of interest between itself and its Clients, between its Employees and Clients and between one Client and another are identified and then prevented or managed, or disclosed, in such a way that the interests of a Client are not adversely affected.

7.2. Identifying a conflict of interest

In order to identify the conflicts of interest that may arise in the course of its business, an Authorised Firm must consider whether it or a Person linked to the firm:

(a) is likely to make a financial gain, or avoid a financial loss, at the expense of a Client;

(b) has an interest in the outcome of a service or a transaction carried out for the Client, which is different from the Client's interest;

(c) has arranged for one part of its business or a business line to provide a service or carry out a transaction for a Client that has a favourable or beneficial impact on another part or business line of the same Authorised Firm or Person linked to the firm;

(d) has any incentive to favour one Client over another Client;

(e) carries on the same business or activities as the Client; or

(f) receives an inducement from a third party in relation to a service provided to a Client.

7.3. Managing a conflict of interest

Where an Authorised Firm is aware of a conflict or potential conflict of interest, it must take all reasonable steps to prevent that conflict of interest from adversely affecting the Client by using the following arrangements as appropriate:

(a) establishing and maintaining effective organisational arrangements to prevent or manage conflicts, including information barriers to restrict the communication of the relevant information; and

(b) disclosing the conflict of interest to the Client in writing either generally or in relation to a specific transaction, the risks resulting from that conflict, and the steps taken to address the conflict.

If an Authorised Firm is unable to prevent or manage a conflict or potential conflict of interest, it must decline to act for that Client.

Guidance: Information barriers

An information barrier, also known as a "Chinese wall", is an arrangement that requires a Person involved in one part of an Authorised Firm's business to withhold information from Persons involved in another part of the business.

7.4. Inducements

7.4.1. General requirement

An Authorised Firm must have policies and procedures in place to ensure that it, or its Employee or Associate, does not offer, give, solicit or accept any inducement from a third party, such as a fee, commissions or other direct or indirect benefit, where the inducement is reasonably likely to conflict with any duty that the Authorised Firm owes to its Clients.

7.4.2. Introductions

In circumstances where an Authorised Firm introduces a Client to a third party and receives a fee, commission or other benefit in respect of that introduction, such fee, commission or other benefit received in respect of such a referral would not be a prohibited inducement under this Rule, provided that the Authorised Firm has acted in the best interests of the Client.

7.4.3. Requirement to disclose inducements

An Authorised Firm must, before providing a Financial Product or Financial Service to a Client, disclose to that Client any inducement which it, or any Associate or Employee of it, has received or may or will receive as a result of providing the Financial Product or Financial Service.

7.4.4. Disclosure in summary form

An Authorised Firm may provide the information required by COB 7.4.3 in summary form, provided it informs the client that more detailed information will be provided to the client upon request and complies with such a request.

7.4.5. Record keeping

An Authorised Firm shall maintain record of inducements disclosed under COB 7.4.3 for a period of six years after such inducement was disclosed.

7.5. Personal Transactions

7.5.1. Conditions for Personal Transactions

An Authorised Firm must establish and maintain adequate policies and procedures so as to ensure that:

(a) an Employee does not undertake a Personal Transaction unless:

(i) the Authorised Firm has, in a written notice, drawn to the attention of the Employee the conditions upon which the Employee may undertake Personal Transactions and that the contents of such a notice are made a term of his contract of employment or services;

(ii) the Authorised Firm has given its written permission to that Employee for that transaction or to transactions generally in Investments of that kind; and

(iii) the transaction will not conflict with the Authorised Firm's duties to its Clients;

(b) it receives prompt notification or is otherwise aware of each Employee's Personal Transactions; and

(c) if an Employee's Personal Transactions are conducted with the Authorised Firm, each Employee's account must be clearly identified and distinguishable from other Clients' accounts.

7.5.2. Content of written notice

The written notice in COB 7.5.1(a)(i) must make it explicit that, if an Employee is prohibited from undertaking a Personal Transaction, he must not, except in the proper course of his employment:

(a) procure another Person to enter into such a Transaction; or

(b) communicate any information or opinion to another Person if he knows, or ought to know, that the Person will as a result, enter into such a Transaction or procure some other Person to do so.

Where an Authorised Firm has taken reasonable steps to ensure that an Employee will not be involved to any material extent in, or have access to information about, the Authorised Firm's Regulated Activities, then the Authorised Firm need not comply with the requirements in COB 7.5.1 in respect of that Employee.

8. CLIENT ASSETS

8.1. Application

8.1.1. Purpose of COB 8

The purpose of this section is providing protection for the Client, in the event that an Authorised Firm becomes insolvent or is otherwise unable to fulfil its obligations, in relation to any Money or Investments that are held by the Authorised Firm for that Client.

8.1.2. Application of COB 8

This section applies to an Authorised Firm which:

(a) receives Money from, or holds or controls Money for or on behalf of, a Client in the course of, or in connection with, the carrying on of Investment Business in or from the AIFC;

(b) holds or controls Instruments belonging to a Client in the course of, or in connection with, the carrying on of Investment Business in or from the AIFC; or

(c) Provides Custody in or from the AIFC.

8.1.3. Meaning of "hold" and "control"

Client Assets are held or controlled by an Authorised Firm if they are:

(a) directly held by the Authorised Firm;

(b) held in an account in the name of the Authorised Firm;

(c) held by a Person, or in an account in the name of a Person, controlled by the Authorised Firm; or

(d) held in the Client's own name, but the Authorised Firm has a mandate from the Client to manage those assets on a discretionary basis.

Guidance: Examples of Client Assets controlled by an Authorised Firm

For the purposes of COB 8.1.3, the AFSA would consider:

(i) a Person to be controlled by an Authorised Firm if that Person is inclined to act in accordance with the instructions of the Authorised Firm;

(ii) an account to be controlled by an Authorised Firm if that account is operated in accordance with the instructions of the Authorised Firm; and

(iii) if an Authorised Firm has a discretionary portfolio mandate from a Client, even though the assets are to be held in the name of the Client (for example, under a power of attorney arrangement), the Authorised Firm controls those assets as it can execute transactions relating to those assets, within the parameters set out in the mandate, in which situation the rules on mandates in COB 8.4 shall apply.

8.1.4. General requirements

An Authorised Firm which receives Money from, or holds Money for or on behalf of, a Client in the course of, or in connection with, the carrying on of Investment Business in or from the AIFC must comply with COB 8.2.

An Authorised Firm which holds Investments belonging to a Client in the course of, or in connection with, the carrying on of Investment Business in or from the AIFC or Provides Custody in or from the AIFC must comply with COB 8.3.

A Client whose Investments or Money is required to be held in compliance with either COB 8.2 or COB 8.3 is a "Segregated Client".

An Authorised Firm which controls Money or Investments belonging to a Client under a Mandate but does not receive or hold that Money or those Investments itself must comply with COB 8.4.

8.1.5. Arranging Custody

An Authorised Firm which Arranges Custody must comply with the requirements in COB 8.3.7 (on assessing the suitability of Third Party Account Providers), COB 8.3.13 (on disclosure), COB 8.3.14(2) (on client reporting) and COB 8.3.15 (on record keeping).

8.2. Client Money: Investment Business

The rules in this COB 8.2 are the Client Money Rules.

8.2.1. Meaning of "Client Money"

All Money received or held on behalf of a Client in the course of, or in connection with, the carrying on of Investment Business in or from the AIFC is Client Money, except Money which is:

(a) (where the Authorised Firm is a Bank) held as a deposit by the Authorised Firm;

(b) due and payable by the Client to the Authorised Firm for the account of the Authorised Firm. Examples of situations where Money is due and payable to an Authorised Firm includes Money which is payable to the Authorised Firm in respect of its charges or a Client purchase or in settlement of a margin payment;

(c) belongs to another Person within the Authorised Firm's Group (unless that Person notified the Authorised Firm in writing that the beneficial owner of the Money is a Person who is not part of the Authorised Firm's Group and has requested that the Client Money Rules should apply to such Money);

(d) in an account in the Client's name over which the Authorised Firm has a Mandate or similar authority and which is subject to COB 8.4;

(e) received in the form of a cheque, or other payable order, made payable to a third party other than a Person or account controlled by the Authorised Firm, provided the cheque or other payable order is intended to be forwarded to the third party within one business day of receipt; or

(f) Fund Property of a Fund.

Where the Authorised Firm is a Bank and holds the Client's Money as a Deposit in accordance with (a) above, it must prior to providing the Investment Business in respect of that Money notify the Client in writing that:

(a) the Money held by the Authorised Firm is held as a Deposit and will not be subject to the Client Money Rules; and

(b) in the event that the Authorised Firm fails, the Client Money Distribution Rules will not apply.

8.2.2. Exclusion of the Client Money Rules

Where the Client is a Market Counterparty or a Professional Client, the Authorised Firm and the Client may agree to exclude the application of the Client Money Rules. Any such agreement with the Client must be in writing and must be entered into before the Authorised Firm provides Investment Business in respect of that Money.

Where the Authorised Firm proposes to exclude the application of the Client Money Rules under this COB 8.2.2, it must prior to obtaining the Client's agreement disclose to the Client in writing that the Money held by the Authorised Firm will not be subject to the protections conferred by the Client Money Rules.

8.2.3. General requirements

An Authorised Firm which receives or holds Client Money for a Segregated Client must:

(a) comply with the Client Money Rules in relation to that Client Money; and

(b) have systems and controls in place to be able to evidence its compliance with the Client Money Rules.

8.2.4. Client Money Accounts

A Client Money Account in relation to Client Money is an account which:

(a) is held with a Third Party Account Provider;

(b) is established for the purpose of holding Client Money;

(c) is maintained in the name of the Authorised Firm or a Nominee Company controlled by the Authorised Firm; and

(d) includes the words 'Client Account' in its title.

8.2.5. Requirement to pay Client Money into Client Money Account

Where an Authorised Firm receives or holds Client Money it must ensure (except where otherwise provided in COB 8.2.8) that the Client Money is paid into one or more Client Money Accounts within one day of receipt.

Where an Authorised Firm deposits any Money into a Client Money Account, such Money is Client Money until the Money is withdrawn from the Client Money Account in accordance with the Client Money Rules.

8.2.6. Client Money held for Segregated Clients in a Client Money Account

An Authorised Firm may hold Client Money belonging to a Segregated Client:

(a) in a Client Money Account solely for that Client; or

(b) in a Client Money Account containing the pooled Client Money of more than one Segregated Client.

8.2.7. Client Money Account to contain Client Money only

An Authorised Firm must:

(a) not deposit its own Money into a Client Money Account, other than where:

(i) a minimum sum is required to open the Client Money Account, or to keep it open;

(ii) the Money is received by way of mixed remittance (provided the Authorised Firm transfers out that part of the payment which is not Client Money within one day of the day on which the Authorised Firm would normally expect the remittance to be cleared);

(iii) interest credited to the account exceeds the amount payable to Segregated Clients (provided that the Money is removed within twenty-five days); or

(iv) it is to meet a shortfall in Client Money;

(b) maintain systems and controls for identifying Money which must not be in a Client Money Account and for transferring it without delay;

(c) not use Client Money belonging to one Client to satisfy an obligation of another Client; and

(d) ensure that no off-setting or debit balances occur on Client Money Accounts.

8.2.8. Exceptions to Holding Client Money in Client Money Accounts

The requirement for an Authorised Firm to pay Client Money into a Client Money Account does not apply with respect to Client Money:

(a) received in the form of cheque, or other payable order, until the Authorised Firm, or a Person or account controlled by the Authorised Firm, is in receipt of the proceeds of that cheque;

(b) temporarily held by an Authorised Firm before forwarding to a Person nominated by the Client; or

(c) in connection with a Delivery Versus Payment Transaction where:

(i) in respect of a purchase by the Client, the Client Money will be due to the Authorised Firm within one day following the Authorised Firm's fulfilment of its delivery obligation to the Client; or

(ii) in respect of a sale by the Client, the Client Money will be due to the Client within one day following the Client's fulfilment of its delivery obligation to the Authorised Firm.

Where (b) or (c) apply, the Authorised Firm must pay the Client Money into a Client Money Account where it has not fulfilled its delivery or payment obligation within three days of receipt of the Money or Investments, except where the circumstances in (c)(ii) apply and the

Authorised Firm instead safeguards Client Investments of a value at least equal to the value of such Client Money.

An Authorised Firm must maintain adequate records of all cheques and payment orders received in accordance with (a) above including, in respect of each payment, the date of receipt, the name of the Client for whom payment is to be credited and the date on which the cheque or payment order was presented to the Authorised Firm's Third Party Account Provider. The records must be kept for a minimum of six years.

8.2.9. Conditions for use of Third Party Account Providers

Save as provided in this COB 8.2.9, an Authorised Firm may only pass, or permit to be passed, Client Money to a Third Party Account Provider if:

(a) the Client Money is to be used in respect of a Transaction or series or Transactions for that Client;

(b) the Client Money is to be used to meet an obligation of that Client;

(c) the Third Party Account Provider is a Bank or a Regulated Financial Institution which is authorised to accept or take Deposits; or

(d) the Client Money is put into a Shari'ah product that is offered by a Third Party Account Provider and that has been approved by the AFSA as being suitable for the holding of Client Money.

In respect of (a) and (b) above, an Authorised Firm must not hold the Client Money with the Third Party Account Provider longer than necessary to effect a Transaction or satisfy the Client's obligation.

8.2.10. Holding Client Money with Third Party Account Providers

An Authorised Firm may only pay, or permit to be paid, Client Money to a Third Party Account Provider pursuant to COB 8.2.9 (c) or (d) above where it has:

(a) undertaken appropriate due diligence on the Third Party Account Provider and concluded on reasonable grounds that the Third Party Account Provider is suitable to hold that Client Money; and

(b) confirmed that the laws and regulations of both:

(i) the jurisdiction in which the Client Money will be held; and

(ii) the jurisdiction in which the relevant Bank or Regulated Financial Institution is legally established (if different),

recognise that Client Money belongs beneficially to the Client and will not be available to satisfy any debts of the Bank or Regulated Financial Institution.

8.2.11. Due diligence on Third Party Account Providers

When undertaking due diligence on a Third Party Account Provider, an Authorised Firm should have regard to the following:

(a) the following characteristics of the Third Party Account Provider:

(i) its expertise and market reputation;

(ii) its credit rating;

(iii) its capital and financial resources;

(iv) the amount of Client Money placed, as a proportion of its overall capital and deposits;

(v) the extent to which the Client Money would be protected under a deposit guarantee protection scheme;

(vi) where such information is available, the level of risk in the investment and loan activities undertaken by it or members of its Group;

(vii) its use of agents and service providers; and

(viii) the financial position of its Group; and

(b) (without prejudice to the obligation under (a) above) any legal requirements or market practices in the jurisdiction in which it is located (including the insolvency regime in that jurisdiction) which may adversely affect the protections available in respect of any Client Money placed with the Third Party Account Provider.

When assessing the suitability of the Third Party Account Provider, the Authorised Firm must ensure that the Third Party Account Provider will provide protections equivalent to the protections conferred by the Client Money Rules.

An Authorised Firm must have systems and controls in place to ensure that the Third Party Account Provider remains suitable to hold Client Money for its Segregated Clients. This includes undertaking appropriate due diligence, in the manner described above, on an ongoing basis.

An Authorised Firm must be able to demonstrate to the AIFC's satisfaction the grounds upon which the Authorised Firm considers the Third Party Account Provider to be suitable to hold that Client Money.

8.2.12. Obtaining written acknowledgments from Third Party Account Providers

When an Authorised Firm opens a Client Money Account with a Third Party Account Provider it must obtain a written acknowledgement from the Third Party Account Provider stating that:

(a) the Third Party Account Provider is under an obligation to keep its own Money separate from the Money it holds for its Clients;

(b) all Money standing to the credit of the account is held by the Authorised Firm as agent and that the Third Party Account Provider is not entitled to combine the account with any other account or to exercise any charge, mortgage, lien, right of set-off or counterclaim against Money in that account in respect of any sum owed to it on any other account of the Authorised Firm; and

(c) the title of the account is, or will be, sufficient to distinguish that account from any account containing Money that belongs to the Authorised Firm.

The Authorised Firm must obtain the written acknowledgement referred to above prior to placing any Client Money into an account with the Third Party Account Provider.

8.2.13. Payments of Client Money from Client Money Accounts

Client Money must remain in a Client Money Account until it is:

(a) due and payable to the Authorised Firm;

(b) paid to the Client on whose behalf the Client Money is held or to a duly authorised representative of such Client;

(c) paid in accordance with an instruction from the Client on whose behalf the Client Money is held;

(d) required to meet the payment obligations of the Client on whose behalf the Client Money is held; or

(e) paid out in circumstances that are otherwise authorised by the AIFC.

Money paid out by way of cheque or other payable order under this Rule must remain in a Client Money Account until the cheque or payable order is presented to the Client's bank and cleared by the paying agent.

8.2.14. Client Money arising from Client Investments

Money arising from, or in connection with, the holding of Client Investments and which is due to a Client must be treated as Client Money in accordance with the Client Money Rules.

8.2.15. Distribution Event

Following a Distribution Event, an Authorised Firm must comply with the Client Money Distribution Rules and all Client Money will be subject to such Rules.

8.2.16. Client Money Distribution Rules (Investment Business)

(1) The requirements in this COB 8.2.16 are the Client Money Distribution Rules (Investment Business) and to the extent that these Rules are inconsistent with the AIFC Insolvency Regulations, these Rules will prevail.

(2) Following a Distribution Event, the Authorised Firm must distribute Money in the following order of priorities:

(a) firstly, in relation to Client Money held in a Client Account on behalf of Segregated Clients, claims relating to that Money must be paid to each Segregated Client in full or, where insufficient funds are held in a Client Account, proportionately, in accordance with each Segregated Client's valid claim over that Money;

(b) secondly, where the amount of Client Money in a Client Account is insufficient to satisfy the claims of Segregated Clients in respect of that Money, or not being immediately available to satisfy such claims, all other Money held by the Authorised Firm must be used to satisfy any outstanding amounts remaining payable to Segregated Clients in respect of their Client Assets but not satisfied from the application of (a) above;

(c) thirdly, upon resolution of claims in relation to Segregated Clients, any Money remaining with the Authorised Firm must be paid to each Client in full or, where insufficient funds are held by the Authorised Firm, proportionately, in accordance with each Client's valid claim over that Money; and

(d) fourthly, upon satisfaction of all claims in (a), (b) and (c) above, in the event of:

(i) the appointment of a liquidator, receiver or administrator, or trustee in bankruptcy over the Authorised Firm or the Nominee Company, payment must be made in accordance with the AIFC Insolvency Regulations; or

(ii) all other Distribution Events, payment must be made in accordance with the direction of the AFSA.

8.2.17. Procedures relating to Client Money Accounts

An Authorised Firm must have procedures for identifying Client Money received by the Authorised Firm (by whatever means they are received) and for promptly recording the receipt of the Money either in the books of account or a register for later posting to the Client cash book and ledger accounts.

An Authorised Firm must have procedures for ensuring all withdrawals from a Client Money Account are authorised and carried out in accordance with this COB 8.2.17.

8.2.18. Client disclosures

An Authorised Firm that holds Client Money belonging to a Client in must in good time before it provides the relevant Investment Business disclose the following information to the Client:

(a) that the Client is subject to the protection conferred by the Client Money Rules and, as a consequence:

(i) this Money will be held separate from Money belonging to the Authorised Firm; and

(ii) in the event of the Authorised Firm's insolvency, winding up or other Distribution Event stipulated by the AIFC, the Client's Money will be subject to the Client Money Distribution Rules;

(b) whether the Client Money of that Client may be held by a third party on behalf of the Authorised Firm, and if so, what degree of responsibility the Authorised Firm has for any acts or omissions of the third party; and what the likely consequences are for the Client of the insolvency of the third party;

(c) whether interest is payable to the Client and, if so, on what terms;

(d) if applicable, that the Client Money may be held in a jurisdiction outside the AIFC and the market practices, insolvency and legal regime applicable in that jurisdiction may differ from the regime applicable in the AIFC;

(e) if applicable, details about how any Client Money arising out of Islamic Financial Business are to be held; and

(f) details of any rights which the Authorised Firm may have to realise Client Money held on behalf of the Client in satisfaction of a default by the Client or otherwise.

8.2.19. Client reporting

In relation to each Client for whom it receives or holds Client Money, an Authorised Firm must provide at least once a year a statement of the Client Money unless such a statement has been provided in a periodic statement in accordance with COB 9.

8.2.20. Record keeping

An Authorised Firm must maintain records which enable it to determine promptly the total amount of Client Money that it holds for each of its Clients.

An Authorised Firm must maintain records:

(a) which enable the Authorised Firm to demonstrate compliance with the Client Money Rules; and

(b) which enable the Authorised Firm to demonstrate and explain all entries of Money held in accordance with the Client Money Rules.

Records must be kept for a minimum of six years.

8.2.21. Reconciliations

An Authorised Firm must maintain a system to ensure that accurate reconciliations of the Client Accounts are carried out at least once in every calendar month.

8.2.22. Nature of reconciliation

The reconciliation must include:

(a) a full list of individual Segregated Client credit ledger balances, as recorded by the Authorised Firm;

(b) a full list of individual Segregated Client debit ledger balances, as recorded by the Authorised Firm;

(c) a full list of unpresented cheques and outstanding lodgements;

(d) a full list of Client Account cash book balances; and

(e) formal statements from Third Party Account Providers showing account balances as at the date of reconciliation.

8.2.23. Requirements for reconciliation

An Authorised Firm must:

(a) reconcile the individual credit ledger balances, Client Account cash book balances, and the Third Party Account Provider Client Account balances;

(b) check that the balance in the Client Accounts as at the close of business on the previous day was at least equal to the aggregate balance of individual credit ledger balances as at the close of business on the previous day; and

(c) ensure that all shortfalls, excess balances and unresolved differences, other than differences arising solely as a result of timing differences between the accounting systems of the Third Party Account Provider and the Authorised Firm, are investigated and, where applicable, corrective action taken as soon as possible.

An Authorised Firm must perform the reconciliations in the preceding paragraph within 10 days of the date to which the reconciliation relates.

An Authorised Firm must ensure that the process of reconciliation does not give rise to a conflict of interest.

8.2.24. Review of reconciliation

When performing reconciliations in accordance with COB 8.2.21, an Authorised Firm should:

(a) maintain a clear separation of duties to ensure that an employee with responsibility for operating Client Accounts, or an employee that has the authority to make payments, does not perform the reconciliations; and

(b) ensure that the reconciliations are reviewed by a member of the Authorised Firm who has adequate seniority. The member in question must provide a written statement confirming the reconciliation has been undertaken in accordance with the requirements of COB 8.3.21-8.2.23.

Guidance: Material discrepancies

The Authorised Firm should notify the AFSA where there has been a material discrepancy with the reconciliation which has not been rectified. A material discrepancy includes discrepancies which have the cumulative effect of being material, such as longstanding discrepancies.

8.3. Client Investments Rules

The rules in COB 8.3 are the Client Investments Rules.

8.3.1. Meaning of Client Investments

A Client Investment is an Investment held by an Authorised Firm on behalf of a Client in the course of, or in connection with, the carrying on of Investment Business by the Authorised Firm.

8.3.2. Exceptions to the Client Investments Rules

The Client Investments Rules do not apply to Client Investments held as Collateral in accordance with the provisions of this COB 8.3.2.

Before an Authorised Firm holds Collateral from a Client it must disclose to that Client:

(a) the terms governing the arrangement under which the Collateral will be held, including any rights which the Authorised Firm may have to realise the Collateral and the terms governing the termination of the arrangement;

(b) if applicable, that the Collateral will not be registered in that Client's own name;

(c) if applicable, that the Authorised Firm proposes to return to the Client Collateral other than the original Collateral, or original type of Collateral; and

(d) that in the event of the insolvency, winding up or other Distribution Event stipulated by the AFSA, any excess Collateral will be sold and the resulting Client Money shall be distributed in accordance with the Client Money Distribution Rules.

An Authorised Firm must take reasonable steps to ensure that the Collateral is properly safeguarded.

Before an Authorised Firm deposits a Client's Collateral with a Third Party Account Provider it must notify the Third Party Account Provider that:

(a) the Collateral does not belong to the Authorised Firm and must be held by the Third Party Account Provider in a segregated Client Investment Account in a name that clearly identifies it as belonging to the Authorised Firm's Clients; and

(b) the Third Party Account Provider is not entitled to claim any lien or right of retention or sale over the Collateral except to cover the obligations owed to the third party which gave rise to that deposit, pledge, charge or security arrangement or any charges relating to the administration or safekeeping of the Collateral.

Notwithstanding that the Client Investments Rules do not apply to Collateral held by an Authorised Firm in accordance with this COB 8.3.2, the Authorised Firm must carry out appropriate due diligence in relation to the Third Party Account Provider to at least the standards specified in COB 8.3.7.

An Authorised Firm must withdraw the Collateral from the third party where the Collateral is not being properly safeguarded unless the Client has indicated otherwise in writing.

8.3.3. Safeguarding Client Investments

An Authorised Firm which holds Client Investments must have systems and controls in place to ensure the proper safeguarding of Client Investments.

An Authorised Firm which Provides Custody or holds Client Investments must ensure that Client Investments are recorded, registered and held in an appropriate manner to safeguard and control such property.

8.3.4. Client Investment Accounts

A Client Investment Account is an account which:

(a) is held with a Third Party Account Provider or by an Authorised Firm which is authorised under its Licence to Provide Custody;

(b) is established for the purpose of holding Client Investments;

(c) when held by a Third Party Account Provider, is maintained in the name of the Authorised Firm or a Nominee Company controlled by the Authorised Firm; and

(d) includes the words 'Client Account' in its title.

8.3.5. Registration and recording of Client Investments

An Authorised Firm which Provides Custody or holds Client Investments must register or record all Client Investments in the name of:

(a) the Client;

(b) a Nominee Company that is controlled by the Authorised Firm; or

(c) the Authorised Firm where, due to the nature of the law or market practice, it is not feasible to do otherwise.

Save as provided in (c) above, an Authorised Firm which Provides Custody or holds or controls Client Investments must record, register and hold Client Investments separately from its own Investments.

8.3.6. Registration and recording of Client Investments

An Authorised Firm may record, register or hold a Client Investment in:

(a) a Client Investment Account solely for that Client; or

(b) a Client Investment Account containing the pooled Investments of more than one Client.

8.3.7. Holding Client Investments with Third Party Account Providers

An Authorised Firm may only hold a Client Investment with a Third Party Account Provider where it has:

(a) undertaken appropriate due diligence on the Third Party Account Provider and concluded on reasonable grounds that the Third Party Account Provider is suitable to hold those Client Investments; and

(b) confirmed that the laws and regulations of both:

(i) the jurisdiction in which the Client Investments will be held; and

(ii) the jurisdiction in which the relevant Bank or Regulated Financial Institution is legally established (if different),

recognise that Client Investments belong beneficially to the Client and will not be available to satisfy any debts of the Bank or Regulated Financial Institution.

8.3.8. Due diligence on Third Party Account Providers

When undertaking due diligence on a Third Party Account Provider, an Authorised Firm should have regard to the following:

(a) the following characteristics of the Third Party Account Provider:

(i) its expertise and market reputation;

(ii) its credit rating;

(iii) its capital and financial resources;

(iv) the value of the Client Investments held, as a proportion of its overall capital and deposits;

(v) the extent to which the Client Investments would be protected under a deposit guarantee protection scheme;

(vi) where such information is available, the level of risk in the investment and loan activities undertaken by it or members of its Group;

(vii) its use of agents and service providers; and

(viii) the financial position of its Group; and

(b) (without prejudice to the obligation under (a) above) any legal requirements or market practices in the jurisdiction in which it is located (including the insolvency regime in that

jurisdiction) which may adversely affect the protections available in respect of any Client Investments placed with the Third Party Account Provider.

When assessing the suitability of the Third Party Account Provider, the Authorised Firm must ensure that the Third Party Account Provider will provide protections equivalent to the protections conferred by the Client Investments Rules.

An Authorised Firm must have systems and controls in place to ensure that the Third Party Account Provider remains suitable to hold Client Investments for its Segregated Clients. This includes undertaking appropriate due diligence, in the manner described above, on an ongoing basis.

An Authorised Firm must be able to demonstrate to the AIFC's satisfaction the grounds upon which the Authorised Firm considers the Third Party Account Provider to be suitable to hold Client Investments.

8.3.9. Entering into written agreements with Third Party Account Providers

Before an Authorised Firm passes, or permits to be passed, Client Investments to a Third Party Account Provider, it must enter into a written agreement with the Third Party Account Provider under which the Third Party Account Provider agrees that:

(a) it shall keep the Client Investments separately from assets belonging to the Third Party Account Provider;

(b) all Investments standing to the credit of the account are held by the Authorised Firm as agent and that the Third Party Account Provider is not entitled to combine the account with any other account or to exercise any charge, mortgage, lien, right of set-off or counterclaim against Investments in that account in respect of any sum owed to it on any other account of the Authorised Firm;

(c) the title of the account is, or will be, sufficient to distinguish that account from any account containing Investments that belong to the Authorised Firm or the Third Party Account Provider; and

(d) it shall provide a written statement on at least a monthly basis identifying all of the Client Investments that it holds for the Authorised Firm.

8.3.10. Contents of agreements with Third Party Account Providers

The written agreement between the Authorised Firm and the Third Party Provider must also address the following:

(a) the procedures for the passing of instructions to or by the Authorised Firm;

(b) the procedures for dealing with dividends, interest payments and other entitlements accruing to the Client in connection with the Client Investments that are held by the Third Party Account Provider; and

(c) the extent to which the Third Party Account Provider is liable in the event of loss of a Client Investment caused by the acts or omissions of the Third Party Account Provider or any agent of the Third Party Account Provider.

8.3.11. Use of Client Investments for the purposes of the Authorised Firm or another Person

An Authorised Firm must not use a Client Investment for its own purpose or that of another Person without the prior written permission of the relevant Client.

An Authorised Firm which intends to use a Client Investment for its own purpose or that of another Person, must have systems and controls in place to ensure that:

(a) it obtains the prior written permission of the relevant Client to the use of the Client Investment;

(b) adequate records are maintained to protect Client Investments which are applied as collateral or used for stock lending activities;

(c) the equivalent Investments are returned to the Client Investment Account of the Client; and

(d) the Client is not disadvantaged by the use of its Client Investments.

8.3.12. Procedures relating to Client Investment Accounts

An Authorised Firm must have procedures for ensuring that Client Investments are promptly identified and held in accordance with the provisions of this COB 8.3.

8.3.13. Client disclosure

An Authorised Firm that holds Client Investments belonging to a Segregated Client must disclose the following information to the Client:

(a) that the Client is subject to the protections conferred by the Client Investments Rules;

(b) the arrangements for recording and registering Client Investments, claiming and receiving dividends and other entitlements and interest and the giving and receiving instructions relating to those Client Investments (including, if applicable, a statement that the Authorised Firm intends to mix the Client Investments of the Client with those of other Clients);

(c) whether the Client Investments of that Client may be held by a third party on behalf of the Authorised Firm, and if so, what degree of responsibility the Authorised Firm has for any acts or omissions of the third party; and what the likely consequences are for the Client of the insolvency of the third party;

(d) if applicable, that the Client Investments may be held in a jurisdiction outside the AIFC and the market practices, insolvency and legal regime applicable in that jurisdiction may differ from the regime applicable in the AIFC;

(e) details of any rights which the Authorised Firm may have to realise Client Investments held on behalf of the Client in satisfaction of a default by the Client or otherwise; and

(f) the method and frequency upon which the Authorised Firm will report to the Client in relation to its Client Investments.

8.3.14. Client reporting

(1) In relation to each Client for whom it receives or holds Client Investments, an Authorised Firm must provide at least once a year a statement of the Client Investments unless such a statement has been provided in a periodic statement in accordance with (2) or COB 9.

(2) An Authorised Person which Provides Custody for safeguarding and administering Private E-currencies belonging to a Retail Client must send a statement to its Retail

Clients at least monthly. The statement must include the list, description and amount of each Private E-currency held by the Authorised Person as at the date of reporting.

8.3.15. Record keeping

An Authorised Firm must maintain records:

(a) which enable the Authorised Firm to demonstrate compliance with the Client Investments Rules; and

(b) which enable the Authorised Firm at any time and without delay to distinguish Client Investments held for one Client from those held for another Client and from the Authorised Firm's own assets; and

(c) of all agreements entered into with Third Party Account Providers pursuant to COB 8.3.7 and any instructions given by the Authorised Firm to the Third Party Account Provider under the terms of such agreements.

Records must be kept for a minimum of six years.

8.3.16. Reconciliations

An Authorised Firm must:

(a) at least once every calendar month, reconcile its records of Client Accounts held with Third Party Account Providers with monthly statements received from those Third Party Account Providers;

(b) at least every six months, count all Client Investments physically held by the Authorised Firm, or its Nominee Company, and reconcile the result of that count to the records of the Authorised Firm; and

(c) at least every six months, reconcile individual Client ledger balances with the Authorised Firm’s records of Client Investment balances held in Client Accounts.

An Authorised Firm must ensure that the process of reconciliation does not give rise to a conflict of interest.

Where Authorised Persons Provide Custody for safeguarding and administering Private E-currencies belonging to another Person, all reconciliations required under COB 8.3.16 shall be conducted at least every week.

8.3.17. Review of reconciliation

When performing reconciliations in accordance with COB 8.3.16, an Authorised Firm should:

(a) maintain a clear separation of duties to ensure that an employee with responsibility for operating Client Accounts, or an employee that has the authority to make payments, does not perform the reconciliations; and

(b) ensure that the reconciliations are reviewed by a member of the Authorised Firm who has adequate seniority. The member in question must provide a written statement confirming the reconciliation has been undertaken in accordance with the requirements of COB 8.3.16.

Guidance: Material discrepancies

The Authorised Firm should notify the AFSA where there has been a material discrepancy with the reconciliation which has not been rectified. A material discrepancy includes discrepancies which have the cumulative effect of being material, such as longstanding discrepancies.

8.4. Mandates

Where an Authorised Firm holds a Mandate, it must establish adequate records and systems and controls in respect of its use of the Mandates.

Where an Authorised Firm holds Mandates, it must:

(a) maintain an up-to-date list of all such Mandates, including any conditions placed by the Client or by the Authorised Firm on the use of the Mandate and details of the procedures and authorities for the giving and receiving of instructions under the Mandate;

(b) maintain a record of each Transaction entered into under each Mandate; and

(c) ensure that all Transactions entered into using such a Mandate are are within the scope of the authority of the Employee and the Authorised Firm entering into such Transactions.

8.5. Client money: Insurance Intermediation and Insurance Management

8.5.1. Application

COB 8.5 applies to an Insurance Intermediary or Insurance Manager that receives or holds Money for, or on behalf of, a Client in the course of carrying on Insurance Intermediation or Insurance Management. This section also applies to an Insurance Intermediary or Insurance Manager that carries on Insurance Intermediation or Insurance Management for a Takaful Operator.

Guidance: Application to Takaful Business

All provisions in this section 8.5 of AIFC COB rules apply to Insurance Intermediation or Insurance Management activities carried out for a Takaful Operator or for a Takaful Business. All references to Insurance Contract include references to Takaful Contract.

8.5.2. Meaning of “Segregated Client”

A Client whose Money is required to be held in compliance with COB 8.5 is a "Segregated Client".

Guidance: Nature of Client Money in context of Insurance Intermediation and Insurance Management

Client Money in this context may include the following to the extent that they are received or held by the Insurance Intermediary or Insurance Manager:

(a) premiums, additional premiums and return premiums of all kinds;

(b) claims and other payments due under Contracts of Insurance;

(c) refunds;

(d) fees, charges, taxes and similar fiscal levies relating to Contracts of Insurance; or

(e) discounts, commissions and brokerage

(f) monies received from or on behalf of a Client of an Insurance Manager, in relation to his Insurance Management business.

8.5.3. Exception

COB 8.5 does not apply to an Authorised Firm that receives or holds Client Money in accordance with the Rules in COB 8.2 (Client Money: Investment Business).

8.5.4. Client Money

All Money received or held on behalf of a Client in the course of, or in connection with, carrying on Insurance Intermediation or Insurance Management in or from the AIFC is Client Money, except Money which is:

(a) due and payable by the Client to the Insurance Intermediary or Insurance Manager:

(i) for its own account; or

(ii) in its capacity as agent of an insurer where the Insurance Intermediary or Insurance Manager acts in accordance with COB 8.5.5 (Holding money as agent of an insurer);

(b) otherwise received by the Insurance Intermediary or Insurance Manager under an arrangement made between an insurer and another Person that has authority to underwrite risks, settle claims, or handle refunds of premiums on behalf of that insurer outside the AIFC and where the Money relates to that business.

8.5.5. Holding money as agent of an insurer

Money received or held by an Insurance Intermediary or Insurance Manager is not Client Money for the purposes of this COB 8.5 where there is a written agreement in place between the Insurance Intermediary or Insurance Manager and the insurer to whom the relevant money is to be paid (or from whom they have been received) under which the insurer agrees that:

(a) the Insurance Intermediary or Insurance Manager holds as agent for the insurer all money received by it in connection with Contracts of Insurance effected or to be effected by the insurer;

(b) insurance cover is maintained for the Client once the money is received by the Insurance Intermediary; and

(c) the insurer's obligation to make a payment to the Client is not discharged until actual receipt of the relevant money by the Client.

8.5.6. Duty to segregate Client Money

An Insurance Intermediary or Insurance Manager when dealing with Client Money must hold Client Money separate from its money. The Insurance Intermediary or Insurance Manager must segregate the Client Money by either:

(a) paying it as soon as is practicable into a Client Money Account; or

(b) paying it out in accordance with COB 8.5.7 (Money due to a Client from an Insurance Intermediary or Insurance Manager).

8.5.7. Money due to a Client from an Insurance Intermediary or Insurance Manager

If an Insurance Intermediary or Insurance Manager is liable to pay Money to a Client, it must as soon as possible:

(a) pay the Money into a Client Money Account; or

(b) pay it to, or to the order of, the Client.

8.5.8. Use of a Client Money Account

An Insurance Intermediary or Insurance Manager must not hold Money other than Client Money in a Client Money Account, other than:

(a) a minimum sum required to open the Client Money Account, or to keep it open;

(b) Money withdrawn as commission from the Client Money Account (where the Insurance Intermediary or Insurance Manager has received a premium from a Client or on behalf of the Client in accordance with its terms of business with that Client and the relevant insurer, and the commission is withdrawn before onward payment of that premium to the insurer);

(c) Money received by way of mixed remittance (that is, part Client Money and part other Money) (provided the Insurance Intermediary or Insurance Manager pays the full amount into the Client Money Account, and transfers out that part of the payment which is not Client Money not later than 25 days after the day on which the remittance is cleared);

(c) interest credited to the account which exceeds the amount payable to Clients as interest.

8.5.9. Client Money Account

An Insurance Intermediary or Insurance Manager must:

(a) ensure that Client Money is held in one or more Client Money Accounts with one or more Third Party Account Providers;

(b) take reasonable steps before opening a Client Money Account, and as often as is appropriate on a continuing basis (and no less than once in each financial year), to ensure that the Third Party Account Provider is appropriate for that purpose;

(c) prior to operating a Client Money Account, give written notice to, and request written confirmation from, the Third Party Account Provider that the bank is not entitled to combine the Client Money Account with any other account unless that account is itself an Client Money Account held by the Authorised Firm, or to any charge, encumbrance, lien, right of set-off, compensation or retention against monies standing to the credit of the Client Money Account; and

(d) ensure that each Client Money Account contains in its title the name of the Insurance Intermediary or Insurance Manager, together with the designation "Client Account".

Guidance: Due diligence

When assessing a Third Party Account Provider, an Insurance Intermediary or Insurance Manager should consider taking into account, among other matters:

(a) the capital of the Third Party Account Provider;

(b) the amount of Client Money placed, as a proportion of its overall capital and deposits;

(c) the credit rating of the Third Party Account Provider (if available);

(d) where such information is available, the level of risk in the investment and loan activities undertaken by it or members of its Group.

8.5.10. No confirmation from Third Party Account Provider

If a Third Party Account Provider has not provided the written confirmation referred to in COB 8.5.9(c) within 40 business days after the Authorised Firm made the request, the Authorised Firm must as soon as possible withdraw the Client Money held in the Client Money Account with that Third Party Account Provider and deposit them in a Client Money Account with another Third Party Account Provider.

8.5.11. Derivatives in management of Client Money

An Insurance Intermediary or Insurance Manager may not use derivatives in the management of Client Money except for the prudent management of foreign exchange risks.

8.5.12. Untraceable clients

An Insurance Intermediary or Insurance Manager that has a credit balance for a Client who cannot be traced should not take credit for such an amount except where:

(a) he has taken reasonable steps to trace the Client and to inform him that he is entitled to the money; and

(b) at least six years has lapsed from the date the credit was initially notified to the Client.

8.5.13. Record keeping

(1) An Insurance Intermediary or Insurance Manager must keep a copy of any agreement entered into between an insurer and that Insurance Intermediary or Insurance Manager acting as agent pursuant to COB 8.5.5 (Holding money as agent of an insurer) for at least six years from the date on which that agreement is terminated.

(2) An Insurance Intermediary or Insurance Manager must keep records of all sums withdrawn from the Insurance Bank Account as a result of credit taken under COB 8.5.12 (Untraceable clients) for at least six years from the date of withdrawal or realisation.

8.5.14. Distribution Event

Following a Distribution Event, an Insurance Intermediary or Insurance Manager must comply with the Client Money Distribution Rules and all Client Money will be subject to such Rules.

8.5.15. Client Money Distribution Rules (Insurance Intermediation and Insurance Management)

(1) The requirements in this COB 8.5.15 are the Client Money Distribution Rules (Insurance Intermediation and Insurance Management) and to the extent that these Rules are inconsistent with the AIFC Insolvency Regulations, these Rules will prevail.

(2) Following a Distribution Event, the Insurance Intermediary or Insurance Manager must distribute Money in the following order of priorities:

(a) firstly, in relation to Client Money held in a Client Account on behalf of Segregated Clients, claims relating to that Money must be paid to each Segregated Client in full or, where insufficient funds are held in a Client Account, proportionately, in accordance with each Segregated Client's valid claim over that Money;

(b) secondly, where the amount of Client Money in a Client Account is insufficient to satisfy the claims of Segregated Clients in respect of that Money, or not being immediately available to satisfy such claims, all other Money held by the Insurance Intermediary or Insurance Manager must be used to satisfy any outstanding amounts remaining payable to Segregated Clients but not satisfied from the application of (a) above;

(c) thirdly, upon resolution of claims in relation to Segregated Clients, any Money remaining with the Insurance Intermediary or Insurance Manager must be paid to each Client in full or, where insufficient funds are held by the Insurance Intermediary, proportionately, in accordance with each Client's valid claim over that Money; and

(d) fourthly, upon satisfaction of all claims in (a), (b) and (c) above, in the event of:

(i) the appointment of a liquidator, receiver or administrator, or trustee in bankruptcy over the Insurance Intermediary, payment must be made accordance with the AIFC Insolvency Regulations; or

(ii) all other Distribution Events, payment must be made in accordance with the direction of the AFSA.

8.5.16. Client reporting

In relation to each Client for whom it receives or holds Client Money, an Insurance Intermediary or Insurance Manager must provide at least once a year a statement of the Client Money.

9. REPORTING TO CLIENTS

9.1. Trade confirmations

9.1.1. Application

COB 9.1 does not apply to an Authorised Firm that executes a transaction in the course of Managing Investments for a Client.

9.1.2. Providing trade confirmations

When an Authorised Firm executes a transaction in an Investment for a Client, it must provide a confirmation note to the Client as soon as possible and in any case no later than 2 business days following the date of execution of the transaction.

9.1.3. Content of trade confirmations

The confirmation note must include the details of the transaction in accordance with Schedule 3.

9.1.4. Market Counterparties

An Authorised Firm may agree with a Professional Client or Market Counterparty to provide reporting on transactions differently from the requirements in COB 9.1 in relation to content and timing.

9.1.5. Record keeping

An Authorised Firm must retain a copy of each confirmation note sent to a Client and retain it for a minimum of six years from the date of despatch.

9.2. Periodic statements

9.2.1. Requirement to provide periodic statements

When an Authorised Firm:

(a) Manages Investments for a Client; or

(b) operates an account containing uncovered open positions in a Contingent Liability Investment,

it must promptly and at suitable intervals provide the Client with a written statement ("a periodic statement") containing the matters referred to in Schedule 4.

Guidance

For these purposes, a "suitable interval" is:

(a) every three months;

(b) monthly, if the Client's portfolio includes an uncovered open position in Contingent Liability Investments; or

(c) at any alternative interval that a Client has on his own initiative agreed with the Authorised Firm but in any case at least annually.

9.2.2. Record keeping

An Authorised Firm must make a copy of any periodic statement provided to a Client and retain it for a minimum of six years from the date on which it was provided.

10. INVESTMENT RESEARCH

10.1. Application

This section applies to an Authorised Firm preparing or publishing Investment Research that is intended to be distributed to Clients of the Authorised Firm or to the public.

10.2. Conflicts of interest

An Authorised Firm that prepares and publishes Investment Research must have adequate procedures and controls in place to ensure that the Rules in COB 7 in respect of conflicts of interest are properly implemented in order to manage or prevent any conflicts arising in respect of Investment Research.

10.3. Restrictions on transactions

10.3.1. Restrictions on investment analysts

An Authorised Firm must have arrangements in place to ensure that an investment analyst does not undertake a Personal Transaction in an Investment if the investment analyst is preparing Investment Research:

(a) on that Investment or its Issuer; or

(b) on a related Investment, or its Issuer;

until the Investment Research has been made available to its intended recipients, and those recipients have had a reasonable opportunity to act upon it.

10.3.2. Restrictions on own account transactions

An Authorised Firm or its Associate must not knowingly execute a transaction on its own account in an Investment or related Investments, which is the subject of Investment Research, prepared either by the Authorised Firm or its Associate, until the Investment Research has been made available to its intended recipients, and those recipients have had a reasonable opportunity to act upon it. This restriction does not apply if:

(a) the Authorised Firm or its Associate is following a Market Making Strategy in the relevant Investment;

(b) it is not expected to materially affect the price of the Investment.

10.4. Physical separation

The Authorised Firm must put in place:

(a) a physical separation between the investment analysts preparing Investment Research and other Employees whose interests may conflict with those of the intended recipients of the Investment Research; or

(b) if physical separation is not appropriate to the nature and size of the Authorised Firm's business, such information barriers as are required to manage or prevent any conflicts of interest.

10.5. Key information

When an Authorised Firm publishes Investment Research, it must take reasonable steps to ensure that the Investment Research:

(a) states the identity, job title, and relevant financial regulator of the person providing the Investment Research;

(b) identifies the types of Clients for whom it is principally intended;

(c) specifies the date when it was first published;

(d) distinguishes fact from opinion or estimates;

(e) includes references to sources of data and the extent of their reliability;

(f) labels all projections, forecasts, and price targets, together with any assumptions supporting them;

(g) summarises the basis for the valuation or methodology and any underlying assumptions;

(h) indicates where detailed information on the valuation or methodology can be accessed;

(i) contains a clear and unambiguous explanation of the rating or recommendation system used, such as "buy", "sell", or "hold";

(j) specifies the recommended period for the Investment;

(k) explains the related risk including a sensitivity analysis of the assumptions;

(l) states the planned frequency of updates to the recommendation;

(m) includes a distribution of the different ratings or recommendations, in percentage terms:

  (i) for all Investments;

  (ii) for Investments in each sector covered; and

  (iii) for Investments, if any, where the Authorised Firm has undertaken corporate finance business with or for the Issuer over the past 12 months; and

(n) if intended for use only by a Professional Client or Market Counterparty, contains a clear warning that it should not be relied upon by or distributed to Retail Clients;

(o) where the recommendation differs from a previous recommendation concerning the same Investment or Issuer that has been disseminated in the preceding 12-month period, the change(s) and date of the previous recommendation;

(p) a list of all recommendations relating to the relevant instrument or issuer from the previous 12 months, along with the date of dissemination, price target, the price at the time of the recommendation, the direction of the recommendation, the recommended time period of the recommended investment, and the price target, along with the identity of the person(s) who made the recommendation; and

(s) disclosure of any interests or conflicts of interest in accordance with COB 10.6.

10.6. Disclosure of conflicts of interests

For the purposes of this section, an Authorised Firm must take reasonable steps to ensure that when it publishes Investment Research, and in the case where a representative of the Authorised Firm makes a Public Appearance, disclosure is made of the following matters:

(a) any financial interest or material interest that the Investment Analyst or a Family Member of the analyst has, which relates to the Investment;

(b) the reporting lines for Investment Analysts and their remuneration arrangements where such matters give rise to any conflicts of interest which may reasonably be likely to impair the impartiality of the Investment Research;

(c) any shareholding by the Authorised Firm or its Associate of 1 per cent or more of the total issued share capital of the Issuer;

(d) if the Authorised Firm or its Associate acts as corporate broker for the Issuer;

(e) any material shareholding by the Issuer in the Authorised Firm;

(f) any corporate finance business undertaken by the Authorised Firm with or for the Issuer over the past 12 months, and any future relevant corporate finance business initiatives; and

(g) that the Authorised Firm is a Market Maker in the Investment, if that is the case.

10.7. Restrictions on publication during public offer

If an Authorised Firm acts as a manager or co-manager of an initial public offering or a secondary offering, it must take reasonable steps to ensure that:

(a) it does not publish Investment Research relating to the Investment during a Quiet Period; and

(b) an Investment Analyst from the Authorised Firm does not make a Public Appearance relating to that Investment during a Quiet Period.

10.8. Offers of securities

10.8.1. General requirement

When an Authorised Firm carries out a mandate to manage an Offer of Securities or an Offer of Units, it must implement adequate internal arrangements to manage any conflicts of interest that may arise as a result of the Authorised Firm's duty to two distinct sets of Clients namely the corporate finance Client and the investment Client.

10.8.2. Disclosure

For the purposes of COB 10.8.1, when an Authorised Firm accepts a mandate to manage an Offer, it must take reasonable steps to disclose to its corporate finance Client:

(a) the process the Authorised Firm proposes to adopt in order to determine what recommendations it will make about allocations for the Offer;

(b) details of how the target investor group, to whom it is planned to Offer the Securities or Units in a Listed Fund, will be identified;

(c) the process through which recommendations are prepared and by whom; and

(d) (if relevant) that it may recommend placing Securities or Units in a Listed Fund with a Client of the Authorised Firm for whom the Authorised Firm provides other services, with the Authorised Firm's own proprietary book, or with an Associate, and that this represents a potential conflict of interest.

11. INSURANCE INTERMEDIARIES

11.1. Application

11.1.1. General application

Subject to COB 11.1.2, an Insurance Intermediary licensed by the AFSA to provide Insurance Intermediation must comply with the Rules in this COB 11, in respect of both Contracts of Insurance and Takaful Contracts.

11.1.2. Professional Clients and Market Counterparties

An Insurance Intermediary providing Insurance Intermediation for a Market Counterparty is only required to comply with COB 8.5 and 11.3.1, 11.7.1, 11.7.2.

An Insurance Intermediary providing Insurance Intermediation for a Professional Client is required to comply with COB 8.5 and 11.2.1, 11.3., 11.4, 11.5.1, 11.5.3, 11.6.1, 11.7.

An Insurance Intermediary may propose both Contracts of Insurance and Takaful Contracts to its Clients, as long as they provide clear information to enable their Clients to make informed choices.

11.2. Disclosure requirements

11.2.1. General disclosure obligation

Prior to providing Insurance Intermediation to a Client, an Insurance Intermediary must disclose to that Client:

(a) its name and address;

(b) its regulatory status;

(c) the name and address of the insurer or insurers effecting the Contract of Insurance;

(d) if it has a direct or indirect holding representing 10% or more of the voting rights or capital in an insurer; or

(e) if an insurer, or its parent undertaking, has a direct or indirect holding representing 10% or more of the voting rights or capital in the Insurance Intermediary;

(f) contact details for notifying a claim under the Contract of Insurance; and

(g) details of its complaints-handling procedure.

11.2.2. Disclosure of basis of advice

An Insurance Intermediary must, before providing Insurance Intermediation to a Retail Client, disclose whether:

(a) it gives advice on the basis of a fair analysis of the market;

(b) it has a contractual agreement with a particular insurer or insurers to offer only their Contracts of Insurance to Clients; or

(c) even if there are no contractual agreements of the type referred to in (b), it does not give advice on the basis of a fair analysis of the market.

If (b) or (c) applies, the Insurance Intermediary must be prepared to provide a Retail Client on request with a list of insurers with whom it deals and may deal in relation to the relevant Contracts of Insurance.

11.3. Disclosure of costs and remuneration

11.3.1. Disclosure of costs

An Insurance Intermediary must provide details of the costs of each Contract of Insurance or Insurance Intermediation service offered to a Client.

11.3.2. Disclosure of new costs

An Insurance Intermediary must ensure that it does not impose any new costs, fees or charges without first disclosing the amount and the purpose of such costs, fees, or charges to the Client.

11.3.3. Disclosure of commissions and other benefits

An Insurance Intermediary must, at the request of any Client, disclose to that Client any commissions or other benefits that it receives in connection with its Insurance Intermediation for that Client.

11.4. Obligation on Client to disclose material facts

An Insurance Intermediary must explain to a Client:

(a) the Client's duty to disclose all material facts in relation to the risk covered by the insurance before the insurance cover commences and throughout the lifetime of the policy; and

(b) the consequences of any failure by the Client to disclose such material facts.

11.5. Statement of demands and needs

11.5.1. Providing a statement of demands and needs

Prior to the conclusion of a Contract of Insurance, an Insurance Intermediary must provide the Client with a statement of the demands and the needs of that Client, which may be in summary form, as well as the underlying reasons for any advice given to the Client in relation to that Contract of Insurance.

Guidance: Nature of statement of demands and needs

The statement should be provided in writing, but may be provided verbally where the Client requests it, or where immediate cover is necessary.

11.5.2. Ensuring suitability based on demands and needs

An Insurance Intermediary must only make a recommendation to a Retail Client to enter into a Contract of Insurance that is General Insurance where it has taken reasonable steps to ensure that the recommended Contract of Insurance is suitable in light of the Client's demands and needs.

11.5.3. Written confirmation of instructions

Where an Insurance Intermediary is instructed to obtain insurance, which is contrary to the advice that it has given to a Client, the Insurance Intermediary must obtain from the Client written confirmation of the Client's instructions before arranging or buying the relevant insurance.

11.6. Information about Contract of Insurance or Takaful Contract

11.6.1. Adequate information

An Insurance Intermediary must provide adequate information in good time and in a comprehensible form to enable a Client to make an informed decision about whether or not to enter a Contract of Insurance or a Takaful Contract proposed by the Insurance Intermediary.

11.6.2. Policy summary

An Insurance Intermediary must provide a Retail Client with a policy summary explaining the terms of the Contract of Insurance or the Takaful Contract:

(a) the name of the insurer;

(b) type of insurance and cover;

(c) significant features and benefits;

(d) significant or unusual exclusions or limitations;

(e) applicable period of cover;

(f) a statement, where relevant, that the consumer may need to review and update the cover periodically to ensure it remains adequate;

(g) the procedure for handling complaints; and

(h) contact details for notifying a claim.

11.7. Other requirements

11.7.1. Quotations

When giving a quotation, an Insurance Intermediary must take due care to ensure the accuracy of the quotation and its ability to obtain the insurance at the quoted terms.

11.7.2. Confirmation of cover

Where a Client concludes a Contract of Insurance or a Takaful Contract, an Insurance Intermediary must, as soon as reasonably practicable, provide that Client with:

(a) written confirmation and details of the insurance, including any changes to an existing Contract of Insurance; and

(b) the full policy documentation.

11.7.3. Amendments

An Insurance Intermediary must:

(a) respond promptly if a Client requests an amendment to its insurance policy;

(b) provide the Client with details of any additional premium or charges that may need to be paid or which may be returned; and

(c) provide the Client with written confirmation of any amendment and return any premium or charges due to the Client promptly.

11.7.4. Advance notification

If the insurance cover of a Client is due to expire or needs to be renewed, the Insurance Intermediary must give sufficient advance notification to the Client to allow that Client to consider whether it wishes to enter into a new policy or renew its existing policy.

11.7.5. Documentation on expiry or cancellation

When the insurance expires or is cancelled, an Insurance Intermediary must on request provide the Client with the documentation and information to which that Client is entitled.

11.7.6. Claims—general requirements

Where an Insurance Intermediary handles claims it must:

(a) handle claims promptly and fairly;

(b) provide its Client with reasonable guidance on making a claim, and update it on the progress of its claim;

(c) not unreasonably reject a claim (including by terminating or avoiding a policy); and

(d) settle claims promptly once settlement terms are agreed.

11.7.7. Claims handling—recordkeeping

(1) An Insurance Intermediary must make a record of the following information in relation to each claim made against a policy handled by it:

(a) details of the claim;

(b) the date the claim was settled or rejected;

(c) details of settlement or rejection, including information relevant to the basis for the settlement or rejection.

(2) The Insurance Intermediary must keep the record for at least 3 years after the day the claim is settled or rejected.

12. TRUST SERVICE PROVIDERS

12.1. Application

COB 12 applies to a Trust Service Provider that is licensed to Provide Trust Services by the AFSA.

Guidance: Examples of Clients of a Trust Service Provider

The Client of a Trust Service Provider may be a settlor, trustee or named beneficiary of a trust.

12.2. Obligations of the Trust Service Provider

A Trust Service Provider must maintain proper standards of governance and professionalism and must comply with all applicable AIFC laws, Rules and Regulations relevant to Providing Trust Services.

12.3. Exercise of discretion

Where a Trust Service Provider is responsible for exercising discretion for, or in relation to, its Clients, it must exercise its discretion or other powers in a proper manner and for a proper purpose.

12.4. Delegation of duties or powers

Any delegation of duties or powers by a Trust Service Provider must be for a proper purpose, subject to appropriate oversight, and comply with all applicable AIFC laws, Rules and Regulations.

12.5. Professional indemnity insurance

A Trust Service Provider must at all times hold adequate professional indemnity insurance appropriate to the nature and size of its business. It must:

(a) provide the AFSA with a copy of its professional indemnity insurance cover; and

(b) notify the AFSA of:

(i) any changes to the cover including termination and renewal;

(ii) any claims in excess of USD 10,000.

12.6. Internal reporting

A Trust Service Provider must have arrangements for internal reporting to ensure that the directors or the partners receive sufficient information on the running of the business and the treatment of Clients.

12.7. Use of third parties

Where the Trust Service Provider appoints a third party in connection with a Client's affairs, for example to advise on or manage investments, the Trust Service Provider must carry out due diligence on that third party and continue to monitor its performance on an ongoing basis.

12.8. Qualification and experience

Staff employed or Persons recommended by the Trust Service Provider must have appropriate qualifications and experience.

12.9. Books and records

The books and records of a Trust Service Provider must be sufficient to demonstrate adequate and orderly management of Clients' affairs.

12.10. Due diligence

A Trust Service Provider must, at all times, have verified documentary evidence of the settlors, trustees (in addition to the Trust Service Provider itself) and principal named beneficiaries of trusts for which it Provides Trust Services.

In the case of discretionary trusts with the capacity for the trustee to add further beneficiaries, a Trust Service Provider must also have verified, where reasonably possible, documentary evidence of any Person who receives a distribution from the trust and any other Person who is named in a memorandum or letter of wishes as being a likely recipient of a distribution from a trust.

A Trust Service Provider must demonstrate that it has knowledge of the source of funds that have been settled into trusts or have been used to provide capital to companies, or have been used in transactions with which the Trust Service Provider has an involvement.

12.11. Fitness and Propriety of Persons acting as trustees

Where a Trust Service Provider arranges for a Person who is not an employee of the Trust Service Provider to act as trustee for a Client of the Trust Service Provider, the Trust Service Provider must ensure that such Person is fit and proper.

A Trust Service Provider must notify the AFSA:

(a) of the appointment of a Person, including the name and business address if applicable and the date of commencement of the appointment; and

(b) of the termination of the appointment of such a Person or the resignation of such Person.

13. ANCILLARY SERVICE PROVIDERS

13.1. Application

The Principles for Ancillary Service Providers set out in COB 13.2 apply to Ancillary Service Providers in respect of their provision of Ancillary Services.

13.2. Principles for Ancillary Service Providers

13.2.1. Principle 1 - Integrity

An Ancillary Service Provider must observe high standards of integrity and fair dealing.

13.2.2. Principle 2 - Independence

An Ancillary Service Provider must not allow its independence to be compromised.

13.2.3. Principle 3 - Good faith

An Ancillary Service Provider must act in good faith in its dealings with its Clients and the AFSA and other Financial Services Regulators.

13.2.4. Principle 4 - Best Interests

An Ancillary Service Provider must act in the best interests of its Clients.

13.2.5. Principle 5 - Service

An Ancillary Service Provider must provide a proper standard of service to its clients.

13.2.6. Principle 6 - Legal and regulatory obligations

An Ancillary Service Provider must comply with its legal and regulatory obligations and deal with the AFSA and other Financial Services Regulators in an open, timely and co-operative manner.

13.2.7. Principle 7 - Governance

An Ancillary Service Provider must maintain sound governance arrangements and observe appropriate financial and risk management principles.

13.2.8. Principle 8 - Client Money and Client Assets

An Ancillary Service Provider must protect Client Money and Client Assets that it holds on behalf of Clients.

14. CREDIT RATING AGENCIES

14.1. Application

The Principles set out in COB 14.2 apply to Credit Rating Agencies.

14.2. Principles for Credit Rating Agencies

14.2.1. Principle 1 - Quality and integrity of the rating process

Credit Rating Agencies should endeavour to issue opinions that help to reduce the asymmetry of information among borrowers and lenders and Centre Participants more generally.

Guidance: Processes to ensure quality and integrity

When issuing opinions, a Credit Rating Agency should consider adopting the following processes:

(a) Credit Rating Agencies should adopt and implement written procedures and methodologies to ensure that the opinions they issue are based on a fair and thorough analysis of all relevant information available to the Credit Rating Agency, and that their analysts perform their duties with integrity. Credit Rating Agency rating methodologies should be rigorous, systematic, and Credit Rating Agency ratings should be subject to some form of validation based on historical experience.

(b) Credit Rating Agencies should monitor on an ongoing basis and regularly update an analysis and rating once a rating is issued whenever new information becomes available that causes the Credit Rating Agency to revise or terminate its opinion.

(c) Credit Rating Agencies should maintain internal records to support their ratings.

(d) Credit Rating Agencies should have sufficient resources to carry out high-quality credit assessments.

(e) They should have sufficient personnel to properly assess the entities they rate, seek out information they need in order to make an assessment, and analyse all the information relevant to their decision-making processes.

(f) Analysts employed by Credit Rating Agencies should use the methodologies established by the Credit Rating Agency and be professional, competent, and of high integrity.

14.2.2. Principle 2 – Independence and conflicts of interests

Credit Rating Agency ratings decisions should be independent and free from political or economic pressures and from conflicts of interests arising due to the Credit Rating Agency's ownership structure, business or financial activities, or the financial interests of the Credit Rating Agency's employees. Credit Rating Agencies should, as far as possible, avoid activities, procedures or relationships that may compromise or appear to compromise the independence and objectivity of the credit rating operations.

Guidance: Processes to ensure independence and reduce conflicts of interest

A Credit Rating Agency should consider adopting the following processes:

(a) Credit Rating Agencies should adopt written internal procedures and mechanisms to (1) identify, and (2) eliminate, or manage and disclose, as appropriate, any actual or

potential conflicts of interest that may influence the opinions and analyses Credit Rating Agencies make or the judgment and analyses of the individuals the Credit Rating Agencies employ who have an influence on ratings decisions. Credit Rating Agencies are encouraged to disclose such conflict avoidance and management measures.

(b) The credit rating a Credit Rating Agency assigns to an issuer should not be affected by the existence of or potential for a business relationship between the Credit Rating Agency (or its affiliates) and the issuer or any other party.

(c) Credit Rating Agencies and Credit Rating Agency staff should not engage in any securities or derivatives trading presenting inherent conflicts of interest with the Credit Rating Agencies' ratings activities.

(d) Reporting lines for Credit Rating Agency staff and their compensation arrangements should be structured to eliminate or effectively manage actual and potential conflicts of interest. A Credit Rating Agency analyst should not be compensated or evaluated on the basis of the amount of revenue that a Credit Rating Agency derives from issuers that the analyst rates or with which the analyst regularly interacts.

(e) The determination of a credit rating should be influenced only by factors relevant to the credit assessment.

(f) Credit Rating Agencies should disclose the nature of the compensation arrangement that exists with an issuer that the Credit Rating Agency rates.

14.2.3. Principle 3 – Transparency and timeliness of ratings disclosure

Credit Rating Agencies should make disclosure and transparency an objective in their ratings activities.

Guidance: Processes to ensure transparency and timeliness

A Credit Rating Agency should consider adopting the following processes:

(a) Credit Rating Agencies should distribute in a timely manner their ratings decisions regarding publicly issued fixed-income securities or issuers of publicly traded fixed-income securities.

(b) Credit Rating Agencies should disclose to the public, on a non-selective basis, any rating regarding publicly issued fixed income securities as well as any subsequent decisions to discontinue such a rating if the rating is based in whole or in part on material non-public information.

(c) Credit Rating Agencies should publish sufficient information about their procedures and methodologies so that outside parties can understand how a rating was arrived at by the Credit Rating Agency. This information should include (but not be limited to) the meaning of each rating category and the definition of default and the time horizon the Credit Rating Agency used when making a rating decision.

(d) Credit Rating Agencies should publish sufficient information about the historical default rates of Credit Rating Agency rating categories and whether the default rates of these categories have changed over time, so that interested parties can understand the historical performance of each category and if and how ratings categories have changed.

(e) Credit Rating Agencies should disclose if a rating is unsolicited.

14.2.4. Principle 4 – Confidential information

Credit Rating Agencies should maintain in confidence all non-public information communicated to them by any issuer, or its agents, under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially.

Guidance: Processes to ensure confidentiality

A Credit Rating Agency should consider adopting the following processes:

(a) Credit Rating Agencies should adopt procedures and mechanisms to protect the non-public nature of information shared with them by issuers under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially.

(b) Credit Rating Agencies should use non-public information only for purposes related to their rating activities or otherwise in accordance with their confidentiality agreements with the issuer.

15. COMPLAINTS HANDLING AND DISPUTE RESOLUTION

15.1. Application

This chapter applies to an Authorised Firm, other than a Representative Office, that is licensed by the AFSA to carry on a Regulated Activity, in relation to Retail Clients and Professional Clients only.

15.2. Complaints handling

15.2.1. General requirement

An Authorised Firm must have arrangements in place for the handling of Complaints made against it by Clients.

The policies and procedures for handling Complaints must be in writing and ensure that Complaints are handled fairly, consistently and promptly.

15.2.2. Procedures available on request

An Authorised Firm must ensure that a copy of its Complaints handling procedures is available free of charge to any Client on request.

15.2.3. Proportionality

In establishing adequate Complaints handling policies and procedures, an Authorised Firm should have regard to:

(a) the nature, scale and complexity of its business; and

(b) its size and organisational structure.

Guidance: Period for resolving complaints

The AFSA considers 60 days from the receipt of a Complaint to be an appropriate period in which an Authorised Firm should be able to resolve most Complaints.

15.2.4. Receiving a Complaint

On receipt of a Complaint, an Authorised Firm must:

(a) acknowledge the Complaint promptly in writing;

(b) provide the complainant with:

(i) the contact details of any individual responsible for handling the Complaint;

(ii) details of the Authorised Firm's Complaints handling procedures; and

(iii) a statement that a copy of the procedures is available free of charge upon request; and

(c) investigate the Complaint.

Where appropriate, an Authorised Firm must update the complainant on the progress of the handling of the Complaint.

Guidance: Period for acknowledging complaints

The AFSA considers 7 days to be an adequate period in which an Authorised Firm should be able to acknowledge most Complaints.

The AFSA expects an update to be provided to the complainant in circumstances where the resolution of the Complaint is taking longer than 30 days.

15.2.5. Resolving a Complaint

When the Authorised Firm has completed its investigation of a Complaint, it must promptly:

(a) advise the complainant in writing of the outcome;

(b) provide the complainant with the proposed redress, if applicable; and

(c) provide redress if accepted by the complainant.

If the complainant is not satisfied with the redress offered by the Authorised Firm, it must inform the complainant of other means of resolving the Complaint and provide him with the appropriate contact details upon request.

Guidance: Other means

Other means for resolving a Complaint may include arbitration or the AIFC Courts.

15.2.6. Employees handling complaints

As far as possible, an Authorised Firm must ensure that any individual handling the Complaint was not involved in the conduct of the Financial Service about which the Complaint has been made, and is able to handle the Complaint in a fair and impartial manner.

An Authorised Firm must ensure that any individual responsible for handling the Complaint has sufficient authority to resolve the Complaint or has access to individuals with the necessary authority.

15.3. Referrals

15.3.1. Complaints involving other entities

If an Authorised Firm considers that another Centre Participant or any other Regulated Financial Institution is entirely or partly responsible for the subject matter of a Complaint, it may refer the Complaint, or the relevant part of it, to the other Centre Participant or any other authorised or regulated financial institution in accordance with COB 15.3.2.

15.3.2. Referral to other entities

To refer a Complaint, an Authorised Firm must:

(a) inform the complainant promptly and in writing that it would like to refer the Complaint, and obtain the written consent of the complainant to do so;

(b) if the complainant consents, refer the Complaint to the other Authorised Firm or Regulated Financial Institution promptly and in writing;

(c) inform the complainant promptly and in writing that the Complaint has been referred and provide contact details; and

(d) continue to handle any part of the Complaint not referred to the other Authorised Firm or Regulated Financial Institution.

15.4. Record keeping

15.4.1. General requirement

An Authorised Firm must maintain a record of all Complaints made against it for a minimum period of six years from the date of receipt of a Complaint.

15.4.2. Content of records

The record in COB 15.4.1 must contain the name of the complainant, the substance of the Complaint, a record of the Authorised Firm's response, and any other relevant correspondence or records, and the action taken by the Authorised Firm to resolve each Complaint.

16. RECORD KEEPING AND INTERNAL AUDIT

16.1. Record keeping requirements

An Authorised Firm must, for a minimum of six years, maintain sufficient records in relation to each activity and function of the Authorised Firm. These must include, where applicable, the records kept in accordance with the rules in COB as summarised in the table in COB 16.2.

16.2. Table summarising record keeping requirements

COB reference	Nature of record	Length of record keeping requirement	Date from which record must be kept
COB 2.10	Record of Client classification	Six years	Date on which the business relationship with a Client ended
COB 3.5	Financial Promotion issued by, or on behalf of, the Authorised Firm	Six years	Date on which the Financial Promotion ceases to be made
COB 4.5	A record of each Client Agreement including any subsequent amendments to it as agreed with the Client	Six years	From the date the Client ceases to be a Client of the Authorised Firm
COB 5.5	Suitability report	Six years	From the date the Client ceases to be a Client of the Authorised Firm
COB 6.2.9	Records of orders and transactions	Six years	From date of order or transaction
COB 7.4.5	Record of inducements disclosed	Six years	From the date on which the inducement was disclosed
COB 8.2.8	Record of Client Money received in the form of cheque, or other payable order	Six years	From date of receipt
COB 8.2.20	Records which enable an Authorised Firm to determine promptly the total amount of Client Money that it holds for each of its Clients	Six years	From the date the Client ceases to be a Client of the Authorised Firm
COB 8.3.15	Records in respect of Client Investments	Six years	From the date the Client ceases to be a Client of the Authorised Firm
COB 9.1.5	A copy of each confirmation note sent to a Client	Six years	From the date of despatch
COB 9.2.2	A copy of any periodic statement	Six years	From the date on which

	provided to a Client		it was provided
COB 8.5.13	A copy of any agreement entered into between an insurer and that Insurance Intermediary acting as agent	Six years	From the date on which that agreement is terminated
COB 8.5.13	Records of all sums withdrawn from the Insurance Bank Account	Six years	From the date of withdrawal or realisation
COB 15.4.1	Record of all Complaints made against the Authorised Firm for a minimum period of six years	Six years	From the date of receipt of a Complaint

16.3. Internal Audit of Client Statements

At least annually, a sample of Client statements provided by an Authorised Firm under any of COB 8.2.19, 8.3.14, 9.2 or 8.5.16 must be reviewed by the internal audit function of the Authorised Firm established under GEN 5.5. The sample must be significant and stratified.

Guidance: Significant and Stratified Sample

A sample will be considered "significant" if it includes ≥5% of the total number of Client statements provided during the review period. A sample will be considered "stratified" if it is drawn proportionately from a range of different Client types based on appropriate factors in light of the business of the Authorised Firm, which may include, for example: status (Retail Clients versus Professional Clients), business type, assets, income, geography and types of products held with the Authorised Firm. The results of the internal audit review must be made available to the AFSA upon request.

17. OPERATORS OF A PRIVATE E-CURRENCY BUSINESS

17.1. Application

This chapter applies to an Authorised Person engaged in the activity of Operating a Private E-currency Business.

Guidance

The following activities do not constitute Operating a Private E-currency Business:

trading of Private E-currencies for the Person's own investment purpose;

the issuance of Private E-currencies by a Person and their administration (including sale, redemption);

any other activity or arrangement that is deemed by the AFSA to not constitute Operating a Private E-currency Business, where necessary and appropriate in order for the AFSA to pursue its objectives.

17.2. Rules Applicable to an Authorised Private E-currency Trading Facility

In addition to all requirements applicable to Authorised Persons in these rules, GEN, and AML, an Authorised Person carrying on the Market Activity of Operating a Private E-currency Trading Facility must comply with the applicable requirements set out in the AMI, unless the requirements in this chapter expressly provide otherwise.

17.3. Admission of Private E-currencies to trading

An Authorised Person Operating a Private E-currency Trading Facility may grant admission of Private E-currencies to trading only where it is satisfied that such admission is in accordance with the AMI and an Authorised Private E-currency Trading Facility's Admission to Trading Rules.

An Authorised Person Operating a Private E-currency Trading Facility must not permit trading of Private E-currencies on its facilities unless those Private E-currencies are admitted to, and not suspended from, trading by the Authorised Person Operating a Private E-currency Trading Facility pursuant to Chapter 6 of AMI.

17.4. Additional disclosure requirements

Prior to entering into an initial transaction for, on behalf of, or with a Client, an Authorised Person Operating a Private E-currency Business shall disclose in a clear, fair and not misleading manner:

(a) all terms, conditions and risks relating to the Private E-currencies that have been admitted to trading and/or is the subject of the transaction;

(b) all material risks associated with its products, services and activities; and

(c) all details on the amount and the purpose of any premiums, fees, charges or taxes payable by the Client, whether or not these are payable to the Operating a Private E-currency Business.

17.5. The risks to be disclosed pursuant to COB 17.4

The risks to be disclosed pursuant to COB 17.4. include, but are not limited to, the following:

(a) Private E-currencies not being legal tender or backed by a government;

(b) the value, or process for valuation, of Private E-currencies, including the risk of a Private E-currency having no value;

(c) the volatility and unpredictability of the price of Private E-currencies relative to Fiat Currencies;

(d) that trading in Private E-currencies is susceptible to irrational market forces;

(e) that the nature of Private E-currencies may lead to an increased risk of Financial Crime;

(f) that the nature of Private E-currencies may lead to an increased risk of cyber-attack;

(g) there being limited or, in some cases, no mechanism for the recovery of lost or stolen Private E-currencies;

(h) the risks of Private E-currencies with regard to anonymity, irreversibility of transactions, accidental transactions, transaction recording, and settlement;

(i) that there is no assurance that a Person who accepts a Private E-currency as payment today will continue to do so in the future;

(j) that the nature of Private E-currencies means that technological difficulties experienced by the Authorised Person may prevent the access or use of a Client's Private E-currencies;

(k) any links to Private E-currencies related activity outside the AIFC, which may be unregulated or subject to limited regulation; and

(l) any regulatory changes or actions by the AFSA or Non-AIFC Regulator that may adversely affect the use, transfer, exchange, and value of a Private E-currency.

17.6. Complaints

An Authorised Person Operating a Private E-currency Business shall establish and maintain written policies and procedures to fairly and timely resolve complaints made against it or other parties (including members).

An Authorised Person Operating a Private E-currency Business must provide, in a clear and conspicuous manner: on its website or websites; in all physical locations; and in any other location as the AFSA may prescribe, the following disclosures:

(a) the mailing address, email address, and telephone number for the receipt of complaints;

(b) a statement that the complainant may also bring his or her complaint to the attention of the AFSA;

(c) the AFSA's mailing address, website, and telephone number; and

(d) such other information as the AFSA may require.

An Authorised Person Operating a Private E-currency Business shall report to the AFSA any change in its complaint policies or procedures within ten days.

An Authorised Person Operating a Private E-currency Business must maintain a record of any complaint made against it or other parties (including members) for a minimum period of six years from the date of receipt of the complaint.

17.7. Obligation to report transactions

An Authorised Person Operating a Private E-currency Business shall report to the AFSA details of transactions in Private E-currencies traded on its facility which are executed, or reported, through its systems.

The AFSA may, by written notice or Guidance, specify:

(a) the information to be included in reports made under the preceding paragraph; and

(b) the manner in which such reports are to be made.

17.8. AFSA power to impose a prohibition or requirement

The AFSA may prohibit an Authorised Person Operating a Private E-currency Business from:

(a) entering into certain specified transactions or types of transactions; or

(b) outsourcing any of its functions or activities to a third party.

The AFSA may, by written notice or guidance, set fees payable by an Authorised Person Operating a Private E-currency Business to the AFSA on certain specified transactions or types of transactions.

18. BANKS

18.1. Application

This chapter applies to an Authorised Firm that is licensed by the AFSA to conduct the Regulated Activity of Accepting Deposits.

An Authorised Firm that is licensed to conduct the Regulated Activity of Accepting Deposits is defined as a Bank in BBR 1.5.

18.2. Accepting Deposits

A Bank, in the course of Accepting Deposits, must not accept Deposits from Retail Clients.

18.3. Terms of business for Accepting Deposits — general requirements

(1) A Bank accepting a Deposit from a Client must give the Client its terms of business, before the acceptance of the first Deposit from that Client.

(2) This rule does not apply if the activity of Accepting Deposits is carried on after the termination of the terms of business and the Bank is acting only for the purposes of fulfilling any obligations that remain outstanding under the terms of business.

18.4. Terms of business for Accepting Deposits — contract

(1) A Bank must ensure that its terms of business for accepting a Deposit from a Client contain, in adequate detail, the basis on which it will accept the Deposit from that Client.

(2) Without limiting (1), the Bank must ensure that the terms of business contain the information as specified by the rules in this chapter (Minimum content of terms of business— Accepting Deposits).

(3) A Bank is not required to include information in the terms of business if the information is, by its nature, unavailable when the terms of business are given to the Client. If such information becomes available after the terms of business are given to the Client, the Bank must give the information to the Client as soon as practicable after it becomes available to the Bank.

18.5. Terms of business for Accepting Deposits — multiple documents

A Bank's terms of business for a Client for the activity of Accepting Deposits may consist of one or more documents if it is made clear to the Client that collectively they make up the terms of business.

18.6. Terms of business for Accepting Deposits — amendment

If the terms of business of a Bank for a Client for the activity of Accepting Deposits allow the Bank to amend the terms of business without the Client's agreement, the Bank must not conduct business with or for the Client on the basis of an amendment of the terms of business unless the Bank has given the Client written notice of the amendment:

(a) at least 10 business days before the amendment is to take effect; or

(b) if it is impractical to give that notice, as early as is practicable.

18.7. Terms of business for Accepting Deposits — recordkeeping

A Bank must keep a copy of a terms of business that it gives a Client under this chapter, and of each amendment of the terms of business, for at least 6 years after the day the Bank ceases to conduct business with or for the Client under the terms of business.

18.8. Terms of business for Accepting Deposits — minimum content

(1) Commencement of the terms of business – when and how the terms come into force.

(2) Regulatory status of the Bank as required by the GEN Rules.

(3) The services to be provided by the Bank, including, if applicable, the provision of credit, cheque clearing and provision of statements.

(4) The Bank's fee payment terms, including, if appropriate

(a) how fees are calculated; and

(b) how fees are to be paid and collected; and

(c) how frequently fees are to be paid; and

(d) whether any other payment is receivable by the Bank (or to its knowledge by any members of its Group) instead of fees in relation to a transaction executed by the Bank with or for the Client.

(5) The Bank's terms relating to interest, including, if appropriate

(a) how interest is calculated for both debit and credit balances; and

(b) how interest is paid or collected depending on whether the account is having debit or credit balances; and

(c) how frequently interest is charged and paid.

(6) The Bank's approach to dealing with any applicable conflicts of interest and material interests.

(7) Information about the Bank's internal complaint handling procedures, including information about how a complaint may be made to the Bank.

(8) The details of the arrangement for the Client to provide instructions to the Bank and for the Bank to acknowledge such instructions.

(9) Method of terminating account relationships, either by the bank or by the Client and the consequences of termination in either case.

19. CONDUCT OF INSURANCE AND TAKAFUL BUSINESS

19.1. Insurance and Takaful business—general

19.1.1. Application

(1) This chapter applies to Insurers and Takaful Operators.

(2) All references to Insurers in this chapter should be read as referring also to Takaful Operators. All the provisions of this chapter are applicable to Takaful Business conducted by Takaful Operators, except in the case of provisions which are specifically exempt for Takaful Operators.

(3) All references to Life Policies in this chapter must be read as referring also to Family Takaful Contracts. The regulatory obligations specified by the provisions in this chapter to Life Policies are also applicable to Family Takaful Contracts and all related aspects of Family Takaful Business.

(4) All references to Insurance Contracts in this chapter must be read as referring also to Takaful Contracts. The regulatory obligations specified by the provisions in this chapter to Insurance Contracts are also applicable to Takaful Contracts and all related aspects of Takaful Business.

19.1.2. General Requirements

(5) The use of the terms Takaful, Retakaful, General Takaful and Family Takaful may only be used to describe the products of Authorised Firms that are licensed by the AFSA to carry out the Regulated Activity of Takaful Business.

(6) For the purposes of this AIFC COB Rules, all references to Takaful shall be taken as including Takaful, Retakaful, General Takaful and Family Takaful.

(7) The term 'Islamic insurance' may only be used by Authorised Firms licensed by the AFSA to carry out the Regulated Activity of Takaful Business.

19.2. Cancelling Life Policies—Retail Clients

19.2.1. New Life Policies—right to cancel

Subject to COB 19.2.3 and 19.2.4, a Retail Client has a right to cancel a new Life Policy effected by an Insurer.

Guidance

An Insurer may voluntarily provide additional cancellation rights, or rights exercisable during a longer period than allowed under COB 19.2, but, if it does so, these should be on terms similar to those in COB 19.2.

19.2.2. Variations of Life Policies—right to cancel

(1) Subject to COB 19.2.3 and 19.2.4, a Retail Client has a right to cancel an existing Life Policy effected by an Insurer if the policy is varied and the variation has the effect of:

(a) increasing regular premiums or payments, or a single premium or payment, by more than 25% on the original premium or payment (or the previous highest agreed premium or payment); or

(b) introducing fresh policy terms; or

(c) imposing on the Client additional or increased obligations under the policy; or

(d) reducing, or otherwise materially altering, the Client's benefits under the policy.

(2) This rule does not apply to the variation of a Life Policy if:

(a) the variation is the result of a pre-selected option; or

(b) the variation arises out of the settlement of a claim for damages or compensation connected with a previous contract.

19.2.3. Life policies—when cancellation right can be exercised

(1) A Retail Client may exercise a cancellation right in relation to a Life Policy effected by an Insurer with the Client only during the cancellation period for the investment.

(2) For a new Life Policy, the cancellation period:

(a) starts on the day the Insurer, or relevant Insurance Intermediary, gives the Retail Client a policy document containing all the terms of the policy under COB 5.6.9 (Life policies—provision of policy document); and

(b) ends at the end of 30 days after that day.

(3) For an existing Life Policy that is varied, the cancellation period:

(a) starts on the later of the following:

(i) the day the Insurer, or relevant Insurance Intermediary, tells the Retail Client that the variation has taken effect;

(ii) the day the Insurer, or relevant Insurance Intermediary, gives the Retail Client a written copy of the variation;

(iii) the day the Insurer, or relevant Insurance Intermediary, gives the Retail Client the Product Disclosure Document or disclosure documentation required by COB 5.6.2 (Product disclosure document—provision requirement) for the variation; and

(b) ends at the end of the 30 days after that day.

19.2.4. Life policies—exercising cancellation right

(1) This rule applies if a Retail Client has a right under COB 19.2.1)New Life Policies—right to cancel) or COB 19.2.2 (Variations of Life Policies—right to cancel) to cancel a Life Policy effected by an Insurer with the Client.

(2) The Retail Client may exercise the cancellation right by giving notice of the exercise of the right to the Insurer in a durable medium.

(3) Without limiting subrule (2), if the Retail Client exercises the right in accordance with information given to the Client by the Insurer, the Client is taken to have complied with the subrule.

(4) The notice need not use any particular form of words and it is sufficient if the intention to exercise the right is reasonably clear from the notice or the notice and the surrounding circumstances.

(5) The notice need not give reasons for the exercise of the right.

(6) If the Retail Client exercises the cancellation right by sending notice to the Insurer at the address given to the Client by the firm for the exercise of the right and the notice is in a durable form accessible to the firm, the notice is taken to have been given to the firm when it is sent to the firm at that address.

19.2.5. Life policies—consequences of cancellation

(1) This rule applies if a Retail Client exercises a right under COB 19.2.1 or COB 19.2.2 to cancel a Life Policy effected by an Insurer with the Client.

(2) The Life Policy is terminated.

(3) For a new Life Policy, the Insurer must pay the Retail Client an amount equal to the total of the amounts paid by the Client in relation to the Life Policy.

(4) The amount must be paid to the Retail Client without delay and no later than 30 days after the day the cancellation right is exercised.

(5) For a new Life Policy, the Retail Client must, if required by the Insurer, pay the firm an amount of no more than the total of:

(a) amounts received, and the value of property or services received, by the Client in relation to the Life Policy; and

(b) losses incurred by the firm because of market movements in relation to relevant contracts if the losses are incurred on or before the day the cancellation right is exercised.

(6) Subrule (5) only applies if the Insurer can demonstrate that the Retail Client was given, under COB 5.6.2 (Product disclosure document—provision requirement), details of the amount that the Client may be required to pay if the Client cancelled the contract.

(7) However, subrule (5) (b) does not apply in relation to a contract established on a regular or recurring premium or payment basis.

(8) An amount payable by the Retail Client under subrule (5) must be paid to the Insurer without delay and no later than 21 days after the day the Client receives written notice from the firm requiring payment of the amount.

(9) For an existing Life Policy, the Insurer must pay the Retail Client an amount equal to the cash surrender value (if any) of the policy.

(10) The amount must be paid to the Retail Client without delay and no later than 30 days after the day the cancellation right is exercised.

(11) Any amounts payable under this rule are simple contract debts and, for a new Life Policy, the amounts payable may be set off against each other.

19.3. Cancelling Non-Investment Insurance Contracts

19.3.1. Non-Investment Insurance Contracts —right to cancel

(1) Subject to COB 19.3.2 and 19.3.3, a Retail Client has a right to cancel a Non-Investment Insurance Contract effected by an Insurer.

(2) This rule does not apply to the following contracts:

(a) a Non-Investment Insurance Contract that provides cover for less than 1 month;

(b) a Non-Investment Insurance Contract that has been fully performed by both parties at the Retail Client's express request before the Client purports to exercise the right to cancel;

(c) a Non-Investment Insurance Contract that is a Pure Protection Contract with a term of 6 months or less.

(3) To remove any doubt, a Retail Client has a right to cancel a Non-Investment Insurance Contract when the contract is initially entered into and on each renewal of the contract.

Guidance

1 An Insurer may voluntarily provide additional cancellation rights, or rights exercisable during a longer period than allowed under COB 19.3, but, if it does so, these should be on terms similar to those in COB 19.3.

2 For COB 19.3.1 (2) (b):

(a) a contract is not fully performed only because an event has happened that allows a claim to be made under the contract; and

(b) a contract is fully performed if a claim has been made that leads to the contract being terminated.

3 Cancellation under this part applies only during the initial period of cover. It does not refer to mid-term cancellation that an Insurer may choose to offer its Clients.

4 The cancellation rights described in this part apply to all renewals and not just those where there have been significant changes.

19.3.2. Non-Investment Insurance Contracts—when cancellation right can be exercised

(1) A Retail Client may exercise a cancellation right under COB 19.3.1 in relation to a Non-Investment Insurance Contract only during the cancellation period for the contract.

(2) For a Non-Investment Insurance Contract that is a Pure Protection Contract, the cancellation period:

(a) starts on the day the Insurer, or relevant Insurance Intermediary, gives the Retail Client the policy document and information required by COB 11.7.2 (Confirmation of cover); and

(b) ends at the end of 30 days after that day.

(3) For a Non-Investment Insurance Contract that is a General Insurance Contract, the cancellation period:

(a) starts on the day the Insurer, or relevant Insurance Intermediary, gives the Retail Client the policy document and information required by COB 11.7.2 (Confirmation of cover); and

(b) ends at the end of 14 days after that day.

(4) If a Non-Investment Insurance Contract is a mixed contract, that is, it has elements of both a Pure Protection Contract and a General Insurance Contract, subrule (2) applies to the contract and subrule (3) does not apply to the contract.

19.3.3. Non-Investment Insurance Contracts—exercising cancellation right

(1) This rule applies if a Retail Client has a right under COB 19.3.1 to cancel a Non-Investment Insurance Contract effected by an Insurer.

(2) The Retail Client may exercise the cancellation right by giving notice of the exercise of the right to:

(a) the Insurer; or

(b) any agent of the Insurer with authority to accept notice for the firm.

(3) Without limiting subrule (2), if the Retail Client exercises the right in accordance with information given to the Client in accordance with COB 11.7.2 (Confirmation of cover), the Client is taken to have complied with the subrule.

(4) The notice may be given orally.

(5) The notice need not use any particular form of words and it is sufficient if the intention to exercise the right is reasonably clear from the notice or the notice and the surrounding circumstances.

(6) The notice need not give reasons for the exercise of the right.

(7) If the Retail Client exercises the cancellation right by sending notice to the Authorised Firm at the address given to the Client by the firm for the exercise of the right and the notice is in a durable form accessible to the firm, the notice is taken to have been given to the firm when it is sent to the firm at that address.

19.3.4. Non-Investment Insurance Contracts—consequences of cancellation

(1) This rule applies if a Retail Client exercises a right under COB 19.3.1 to cancel a Non-Investment Insurance Contract effected by an Insurer.

(2) The Contract of Insurance is terminated.

(3) The Insurer must pay to the Retail Client an amount equal to the total of the amounts paid by the Client for the Contract of Insurance.

(4) The amount must be paid to the Retail Client without delay and not later than 21 days after the day the cancellation right is exercised.

(5) If the Contract of Insurance is a General Insurance Contract, the Retail Client must, if required by the Insurer, pay the firm an amount of no more than the total of:

(a) the value of the services the firm actually provided to the Client in relation to the Contract of Insurance; and

(b) amounts received, and the value of property or services received, by the Client in relation to the Contract of Insurance.

(6) However, the Insurer may only require the Retail Client to pay an amount under subrule (5) if:

(a) the performance of the Contract of Insurance started before the end of the cancellation period at the Client's request; and

(b) the Insurer can demonstrate that the Client was, under COB 11.7.2 (Confirmation of cover), given details of the amount that the Client may be required to pay if the Client cancelled the contract.

(7) The Insurer must not require the Retail Client to pay an amount under subrule (5) that could be taken to be a penalty or that exceeds the sum of:

(a) the costs (other than costs for the cover provided under the insurance policy) actually incurred by the Insurer in relation to the insurance policy; and

(b) the cost to the Insurer of the cover actually provided to the Client under the insurance policy.

Guidance for COB 19.3.4 (7) and (8)

1 The amount calculated under COB 19.3.4 (7) may include:

(a) an amount for the cover provided; and

(b) a proportion of the commission paid to another Authorised Firm sufficient to cover that firm's costs; and

(c) a proportion of any fees charged by the Authorised Firm that, when totalled with any commission to be repaid, would be sufficient to cover the firm's costs.

2 The AFSA would expect the proportion of the Contract of Insurance's exposure that relates to the time on risk to be a proportional apportionment. But, if there is material unevenness in the incidence of risk, the Insurer could employ a more accurate method, which may result in a lower or higher charge to the Retail Client.

(8) An amount that the Insurer requires the Retail Client to pay under subrule (5) must not take into account or include an amount received, or the value of any property or services received, by the Client in relation to a claim under the insurance policy.

(9) An amount payable by the Retail Client under subrule (5) must be paid to the Insurer without delay and no later than 30 days after the day the Client receives written notice from the firm requiring payment of the amount.

(10) Any amounts payable under this rule are simple contract debts and may be set off against each other.

19.4. Cancelling Contracts of Insurance—recordkeeping

19.4.1. Contracts of Insurance cancellation—recordkeeping

(1) An Insurer must make appropriate records about the exercise of a right to cancel under COB 19.2 (Cancelling Life Policies—Retail Clients) or COB 19.3 (Cancelling Non-Investment Insurance Contracts).

(2) The records must be kept for at least 6 years after the day the right is exercised.

19.5. Claims handling

19.5.1. Claims handling—general requirements

An Insurer must:

(a) handle claims promptly and fairly;

(b) provide its Client with reasonable guidance on making a claim, and update it on the progress of its claim;

(c) (including by terminating or avoiding a policy); and

(d) settle claims promptly once settlement terms are agreed.

19.5.2. Claims handling—recordkeeping

(1) An Insurer must make a record of the following information in relation to each claim made against a policy issued by it or handled by it:

(a) details of the claim;

(b) the date the claim was settled or rejected;

(c) details of settlement or rejection, including information relevant to the basis for the settlement or rejection.

(2) The Insurer must keep the record for at least 3 years after the day the claim is settled or rejected.

20. INSURANCE MANAGEMENT

Guidance: Outsourcing to Insurance Managers

An Insurer or a Takaful Operator may outsource functions or activities directly related to the Regulated Activities of Effecting or Carrying on Contracts of Insurance to a service provider or those related to the Regulated Activity of Takaful Business, including an Insurance Manager, subject to the provisions of GEN 5.2 (Outsourcing).

In addition to the obligations placed directly upon Insurance Managers in this Chapter, where an Insurer or a Takaful Operator outsources functions to an Insurance Manager, the Insurer or Takaful Operator remains responsible for the compliance of the Insurance Manager with the Framework Regulations and Rules (pursuant to GEN 5.2.1) and the outsourced function is deemed to be carried out by the Insurer or Takaful Operator itself (pursuant to GEN 5.2.2).

20.1. Application

20.1.1. General application

This chapter applies to an Insurance Manager – i.e. Authorised Firm that is licensed by the AFSA to conduct the Regulated Activity of Insurance Management.

20.2. General

20.2.1. Provision of Insurance Management services

(1) Subject to (2), an Insurance Manager may provide Insurance Management services to AIFC-Incorporated Insurers, AIFC-incorporated Takaful Operators and their Branches. An Insurance Manager may also provide Insurance Management services to Non-AIFC insurers and Non-AIFC Takaful Operators (i.e. insurers or Takaful Operators operating entirely outside the AIFC).

(2) An Insurance Manager must not underwrite on behalf of a Non-AIFC Insurer or Non-AIFC Takaful Operator in relation to a Contract of Insurance or a Takaful Contract with or for a Retail Client, unless the Insurance Manager has obtained the prior written approval of the AFSA in respect of that insurer or Takaful Operator.

Guidance: AFSA approval of underwriting on behalf of Non-AIFaC Insurer

For the purposes of COB 20.2.1(2), an Insurance Manager should submit to the AFSA sufficient information to establish that the Non-AIFC Insurer or the Non-AIFC Takaful Operator for which it proposes to act is fit and proper and is subject to adequate regulation in its home jurisdiction.

20.2.2. Meaning of Client

For the purposes of this Chapter, the Client of an Insurance Manager is any Policyholder or potential Policyholder with whom the Insurance Manager interacts when carrying on its Insurance Management activities.

20.3. Disclosure requirements

20.3.1. General disclosure obligation

Prior to providing Insurance Management services to a Client, an Insurance Manager must disclose to that Client:

(a) its name and address;

(b) its regulatory status; and

(c) details of its complaints-handling procedure.

20.3.2. Disclosure of costs

An Insurance Manager must provide details of the costs of Insurance Management service offered to a Client.

20.3.3. Disclosure of new costs

An Insurance Manager must ensure that it does not impose any new costs, fees or charges without first disclosing the amount and the purpose of such costs, fees, or charges to the Client.

20.3.4. Disclosure of commissions and other benefits

An Insurance Manager must, at the request of any Client, disclose to that Client any commissions or other benefits that it receives in connection with its Insurance Management for that Client.

20.4. Claims handling

20.4.1. Claims handling—general requirements

Where an Insurance Manager handles claims it must:

(a) handle claims promptly and fairly;

(b) provide its Client with reasonable guidance on making a claim, and update it on the progress of its claim;

(c) not unreasonably reject a claim (including by terminating or avoiding a policy); and

(d) settle claims promptly once settlement terms are agreed.

20.4.2. Claims handling—recordkeeping

(1) An Insurance Manager must make a record of the following information in relation to each claim made against a policy handled by it:

(a) details of the claim;

(b) the date the claim was settled or rejected;

(c) details of settlement or rejection, including information relevant to the basis for the settlement or rejection.

(2) The Insurance Manager must keep the record for at least 3 years after the day the claim is settled or rejected.

SCHEDULE 1: TRANSACTION RECORDS

	MINIMUM CONTENTS OF TRANSACTION RECORDS
1.	RECEIPT OF CLIENT ORDER OR DISCRETIONARY DECISION TO TRANSACT
	An Authorised Firm must, pursuant to COB 6.2.9(a), make a record of the following:
	(a) the identity and account number of the Client
	(b) the date and time in the jurisdiction in which the instructions were received or the decision was taken by the Authorised Firm to deal
	(c) the identity of the Employee who received the instructions or made the decision to deal
	(d) the Investment, including the number of or its value and any price limit
	(e) whether the instruction relates to a purchase or sale
2.	EXECUTING A TRANSACTION
	An Authorised Firm must, pursuant to COB 6.2.9(b), make a record of the following
	(a) the identity and account number of the Client for whom the Transaction was Executed, or an indication that the Transaction was an Own Account Transaction
	(b) the name of the counterparty
	(c) the date and time in the jurisdiction in which the Transaction was Executed
	(d) the identity of the Employee executing the Transaction
	(e) the Investment, including the number of or its value and price
	(f) whether the Transaction was a purchase or a sale
3.	PASSING A CLIENT ORDER TO ANOTHER PERSON FOR EXECUTION
	An Authorised Firm must, pursuant to COB 6.2.9(c), make a record of the following
	(a) the identity of the Person instructed
	(b) the terms of the instruction
	(c) the date and time that the instruction was given

SCHEDULE 2: KEY INFORMATION AND CONTENT OF CLIENT AGREEMENT

The key information which an Authorised Firm or an Authorised Crowdfunding Platform is required to provide to a Client and include in the Client Agreement with that Client pursuant to COB 4 must include:

(a) the core information set out below; and

(b) where relevant, the additional information required for Investment Business and for Investment Management, for Operating an Investment Crowdfunding Platform or for Operating a Loan Crowdfunding Platform.

1.	CORE INFORMATION
	In the case of a Retail Client, the core information is:
	(a) The name and address of the Authorised Firm, and if it is a Subsidiary, the name and address of the ultimate Holding Company
	(b) The regulatory status of the Authorised Firm
	(c) when and how the Client Agreement is to come into force and how the agreement may be amended or terminated
	(d) Sufficient details of the service that the Authorised Firm will provide, including where relevant, information about any Financial Product or other restrictions applying to the Authorised Firm in the provision of its services and how such restrictions impact on the service offered by the Authorised Firm. If there are no such restrictions, a statement to that effect
	(e) Details of fees, costs and other charges and the basis upon which the Authorised Firm will impose those fees, costs and other charges
	(f) Details of any conflicts of interests for the purposes of disclosure
	(g) Key particulars of the Authorised Firm's Complaints handling procedures and a statement that a copy of the procedures is available free of charge upon request
	In the case of a Professional Client, the core information is the information referred to in (a), (b), (c) and (e) above.
	In the case of a Market Counterparty, the core information is the information referred to in (a) and (b) above.
2.	ADDITIONAL INFORMATION FOR INVESTMENT BUSINESS
	The additional information required for Investment Business is:
	(a) the arrangements for giving instructions to the Authorised Firm and acknowledging those instructions
	(b) information about any agreed investment parameters
	(c) the arrangements for notifying the Client of any Transaction Executed on his behalf
	(d) if the Authorised Firm may act as principal in a Transaction, when it will do so

	(e) the frequency of any periodic statements and whether those statements will include some measure of performance, and if so, what the basis of that measurement will be
	(f) when the obligation to provide best execution can be and is to be waived, a statement that the Authorised Firm does not owe a duty of best execution or the circumstances in which it does not owe such a duty
	(g) where applicable, the basis on which assets comprised in the portfolio are to be valued
3.	ADDITIONAL INFORMATION FOR INVESTMENT MANAGEMENT ACTIVITIES
	The additional information required where an Authorised Firm acts as an Investment Manager is:
	(a) the initial value of the managed portfolio
	(b) the initial composition of the managed portfolio
	(c) the period of account for which periodic statements of the portfolio
	(d) in the case of discretionary investment management activities: (i) the extent of the discretion to be exercised by the Authorised Firm, including any restrictions on the value of any one Investment or the proportion of the portfolio which any one Investment or any particular kind of Investment may constitute; or that there are no such restrictions; (ii) whether the Authorised Firm may commit the Client to supplement the funds in the portfolio, and if it may include borrowing on his behalf: (A) the circumstances in which the Authorised Firm may do so; (B) whether there are any limits on the extent to which the Authorised Firm may do so and, if so, what those limits are; (C) any circumstances in which such limits may be exceeded; and (D) any margin lending arrangements and terms of those arrangements; (iii) that the Authorised Firm may enter into Transactions for the Client, either generally or subject to specified limitation; and (iv) where the Authorised Firm may commit the Client to any obligation to underwrite or sub-underwrite any issue or offer for sale of Securities or Units in a Listed Fund: (A) whether there are any restrictions on the categories of Securities or Units in a Listed Fund which may be underwritten and, if so, what these restrictions are; and (B) whether there are any financial limits on the extent of the underwriting and, if so, what these limits are.
4.	ADDITIONAL INFORMATION FOR SERVICES OFFERED BY AUTHORISED

	CROWDFUNDING PLATFORMS
	The following terms must be included in a client agreement between an Authorised Crowdfunding Platform and a Client that is a lender or an Investor:
	(a) the Authorised Crowdfunding Platform's obligations to administer the loan or Investment, including: (i) how payments made by the Borrower or Issuer will be transferred to the lender or Investor; and (ii) steps that will be taken if payments by a Borrower or an Issuer are overdue, or the Borrower or Issuer is in default.
	(b) if the Client is a Retail Client, the steps that will be taken by an Authorised Crowdfunding Platform and lender or Investor to ensure that the lender or Investor complies with any applicable limits relating to the amounts of loans or investments that may be made using the platform.
	(c) if the Client is a Retail Client, that the Client agrees to sign a risk acknowledgment form each time before each loan, Debenture or Investment (as applicable) that it makes using the platform; and
	(d) the contingency arrangements that an Authorised Crowdfunding Platform will put in place to deal with a platform failure or if an Authorised Crowdfunding Platform ceases to carry on its business.
	The following terms must be included in a client agreement between an Authorised Crowdfunding Platform and Client that is a Borrower or an Issuer:
	(a) a restriction on the Borrower or Issuer using any other crowdfunding service to raise funds during the Commitment Period.
	(b) a restriction on the Borrower or Issuer or any Related Person lending or financing, or arranging lending or finance for a lender or Investor using the service offered by the Authorised Crowdfunding Platform.
	(c) a restriction on the Borrower or Issuer advertising its proposal or soliciting potential lenders or Investors outside the platform during the Commitment Period.
	(d) a requirement on the Borrower or Issuer to give reasonable advance notice to an Authorised Crowdfunding Platform of any material change affecting the Borrower or Issuer, its business or the carrying out of its proposal and the obligations of the Borrower or Issuer if there is any material change after the funds have been provided as per requirements of AMI 7.3.10.
	(e) an obligation on the Borrower or Issuer to produce financial statements at least annually.

SCHEDULE 3: TRADE CONFIRMATION

1.	GENERAL INFORMATION
	An Authorised Firm must include the following general information in a trade confirmation: (a) the Authorised Firm's name and address; (b) whether the Authorised Firm Executed the Transaction as principal or agent; (c) the Client's name, account number or other identifier; (d) a description of the Investment or Fund, including the amount invested or number of units involved; (e) whether the Transaction is a sale or purchase; (f) the price or Unit price at which the Transaction was Executed; (g) if applicable, a statement that the Transaction was Executed on an Execution-Only basis; (h) the date and time of the Transaction; (i) the total amount payable and the date on which it is due; (j) the amount of the Authorised Firms charges in connection with the Transaction, including Commission charges and the amount of any Mark-up or Mark-down, Fees, taxes or duties; (k) the amount or basis of any charges shared with another Person or statement that this will be made available on request; and (l) for Collective Investment Funds, at statement that the price at which the Transaction has been Executed is on a Historic Price or Forward Price basis, as the case may be.
	An Authorised Firm may combine items (f) and (j) in respect of a Transaction where the Client has requested a note showing a single price combining both of these items.
2.	ADDITIONAL INFORMATION: DERIVATIVES
	In relation to Transactions in Derivatives, an Authorised Firm must include the following additional information:
	(a) the maturity, delivery or expiry date of the Derivative; (b) in the case of an Option, the date of exercise or a reference to the last exercise date; (c) whether the exercise creates a sale or purchase in the underlying asset; (d) the strike price of the Option; and (e) if the Transaction closes out an open Futures position, all essential details required in respect of each contract comprised in the open position and each contract by which it was

		closed out and the profit or loss to the Client arising out of closing out that position (a difference account).

SCHEDULE 4: PERIODIC STATEMENTS

	CONTENT OF PERIODIC STATEMENTS: INVESTMENT MANAGEMENT
1.	GENERAL INFORMATION
	A periodic statement, as at the end of the period covered, must contain the following general information: (a) the number, description and value of each Investment; (b) the amount of cash held; (c) the total value of the portfolio; and (d) a statement of the basis on which the value of each Investment has been calculated.
2.	ADDITIONAL INFORMATION: DISCRETIONARY INVESTMENT MANAGEMENT ACTIVITIES
	Where an Authorised Firm acts as an Investment Manager on a discretionary basis, the periodic statement must also include the following additional information: (a) a statement of which Investments, if any, were at the closing date loaned to any third party and which Investments, if any, were at that date charged to secure borrowings made on behalf of the portfolio; (b) the aggregate of any interest payments made and income received during the account period in respect of loans or borrowings made during that period; (c) details of each Transaction which have been entered into for the portfolio during the period; (d) the aggregate of Money and details of all Investments transferred into and out of the portfolio during the period; (e) the aggregate of any interest payments, including the dates of their application and dividends or other benefits received by the Authorised Firm for the portfolio during that period; (f) a statement of the aggregate Charges of the Authorised Firm and its Associates; and (g) a statement of the amount of any Remuneration received by the Authorised Firm or its Associates or both from a third party.
3.	ADDITIONAL INFORMATION: CONTINGENT LIABILITY INVESTMENTS
	In the case where Contingent Liability Investments are involved, an Authorised Firm must also include the following additional information: (a) the aggregate of Money transferred into and out of the portfolio during the valuation period; (b) in relation to each open position in the account at the end of the account period, the unrealised profit or loss to the Client (before deducting or adding any Commission which would be payable on closing out); (c) in relation to each Transaction Executed during the account period to close out a Client's

position, the resulting profit or loss to the Client after deducting or adding any Commission;

(d) the aggregate of each of the following in, or relating to, the Client's portfolio at the close of business on the valuation date:

(i) cash;

(ii) Collateral value;

(iii) management fees; and

(iv) commissions; and

(e) Option account valuations in respect of each open Option contained in the account on the valuation date stating:

(i) the Share, Future, index or other Investment involved;

(ii) the trade price and date for the opening Transaction, unless the valuation statement follows the statement for the period in which the Option was opened; and

(iii) the market price of the contract; and

(f) the exercise price of the contract.

SCHEDULE 5: FINANCIAL PROMOTIONS

	A Financial Promotion must contain the information specified in this table:
1.	The name of the Authorised Firm communicating the Financial Promotion or on whose behalf the Financial promotion is being communicated. This may be a trading name or shortened version of the legal name of the Authorised Firm, provided that the Client can identify the Authorised Firm from it.
2.	If the Financial Promotion has been made for an Authorised Firm by another person, the name of the other Person.
3.	The Authorised Firm's regulatory status.
4.	The address of the Authorised Firm making the Financial Promotion or a contact point (for example, a web site) from which the address is available.
5.	The date of issue and, if applicable, the expiry date of the Financial Promotion.
6.	A statement such that the Financial Promotion is clearly identifiable as a Financial Promotion.
7.	If the Financial Service or Financial Product places the Client's capital at risk, a clear statement to that effect.
8.	If the Financial Service or Financial Product has a complex charging structure or in relation to which the Authorised Firm will receive two or more elements of remuneration, a clear explanation of the charging or remuneration structure.
9.	The intended audience of the Financial Promotion and, if the Financial Promotion is intended only for Professional Clients or Market Counterparties, a clear statement to that effect and that no other person should act upon it.