

Context and Content - CP 106

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What we will cover today

Context – Drivers for change

- address regulatory concerns identified through our supervisory process
- provide greater clarity to firms – so that they do not unwittingly exceed boundaries of their Licences

Proposed key changes affecting:

- firms undertaking arranging/advising relating to investments, insurance, credit & custody
- operating Representative Offices
- undertaking Financial Promotions

Going forward:

- some changes to how we apply the licensing & conduct requirements
- strengthening our enforcement position

Drivers for change

Blurred boundaries between 'arranging' & other financial services (e.g. Providing Custody)

'Arranging', Rep Office and Financial Promotions activities sitting on the same spectrum – making 'overstepping' easy for Rep Offices

Supervision becoming more time consuming than needed relating to these activities

Overview of the CP 106 proposals

CP 106 Proposals:

- keep the current regulatory regime substantially intact
- firm-up boundaries of 'arranging' & Rep Office definitions
- give extensive perimeter guidance to remove ambiguities – using practical examples
- deal with Long-Term Insurance related issues
- refine Financial Promotions regime to minimise abuse
- remove unnecessary regulation in one instance

Key changes proposed for 'arrangers' and 'advisers'

A bespoke
Financial
Service for:

'Arranging &
advising on
credit'

Clarify through
Guidance:

The difference
between 'dealing
as agent' vs.
'arranging'

The difference
between
'outsourced'
service providers
vs. 'arrangers'

Clarify position
re Long-Term
Insurance
('LTI'):

If arranging, or
advising on, LTI
– treatment as
Investments

If 'acting as
agent' for LTI –
Insurance
Intermediation

Key changes relating to arranging and providing custody

Clarify in Guidance the difference between 'providing' & 'arranging' custody

A 'provider' of custody safeguards & administers Client Assets - is legally accountable to the client for safe custody

An 'arranger' of custody is a facilitator – not accountable for safe custody of assets

Disapply Client Asset provisions to firms 'Arranging Custody' except:

Due diligence on foreign custodians to assess their suitability to hold client assets

Disclosure re foreign custodian & different regimes

Key changes for Rep Offices

Remove
significant
ambiguities by:

- specifying that a Rep Office can only market financial services & products offered by:
 - a 'related party' (i.e. its head office or a member of the Group)
 - outside the DIFC
- clarifying that a Rep Office cannot hold monies belonging to its head office clients
- guidance on key aspects, such as:
 - 'giving general information' – Rep Office can
 - giving 'advice' – Rep Office cannot
 - 'making introductions or referrals' to a related party – Rep Office can
 - 'arranging' – a Rep Office cannot

Rep Offices in the (re)insurance arena

Same restrictions apply as for other Rep Offices

Tailored guidance for Rep Office of a non-DIFC Insurer

- can give general information (e.g. type of insurance contracts, standard terms, exclusions) but **no advice** (e.g. negotiations regarding suitable terms)
- can make introductions or referrals – but no arranging contracts of insurance
- cannot act under a binding authority

Tailored guidance for a Rep Office of a non-DIFC broker

- can give general information, but not advice
- can make introductions or referrals, but cannot arrange (e.g. place insurance or assist in doing so, or act as a general point of contact or relationship manager)

Refinements to Financial Promotions

Proposals refine existing provisions – designed to reduce room for potential abuse

Rep Offices can only undertake, or approve, Financial Promotions of related parties (head office & group members) – not of any others

Exempt Financial Promotions can only be carried out for a period up to 3 days in any 12 month period

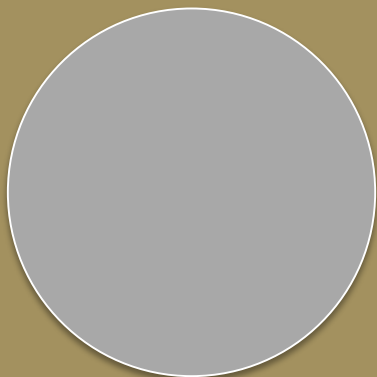
If a firm already has licences covering advising on, or arranging, credit, we will update our records and the Public Register – no new application/approval process needed

If a firm needs a new type of Licence, as per the Guidance which clarifies the boundaries, then it will need to apply – fresh approval process

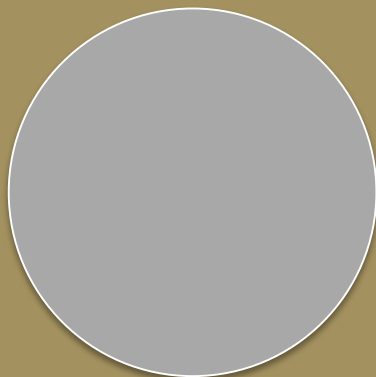
Rep Offices that conduct activities beyond their remit must cease and desist, or upgrade their Licence

Persons carrying on Financial Promotions in or from the DIFC, beyond what is permitted, must cease & desist, or obtain a Rep Office Licence

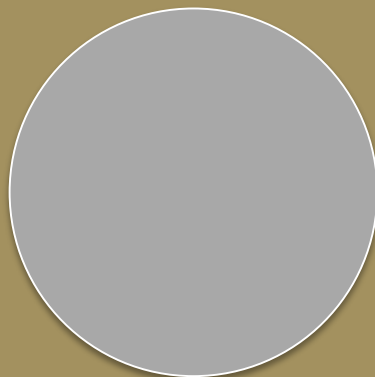
Other matters



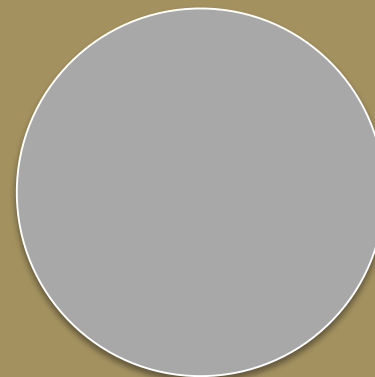
Comment
period ends on
21 August
2016



Use of the *pro
forma* Table to
provide
comments



If any
additional
transitional
arrangements
are needed, let
us know in
your
submission



Expected time
for
implementation
– February
2017





Questions



Thank You