

Changes to the Rulebook: Consultation Paper 106

Dhammika Amukotuwa
Director, Policy and Strategy
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What we will cover today

Background

Public comments on CP 106

Key issues raised by public comments

Key aspects of the new Rules resulting from CP 106

Transitional arrangements

Going forward

New Rules resulting from CP 106 Proposals:

- will come into force on 1 February 2017
- contain some changes from the original proposals in light of public comments – explained in detail later
- give extensive perimeter Guidance to remove ambiguities – using practical examples
- firm-up boundaries of ‘arranging’ and Rep Office definitions
- deal with Long-Term Insurance related issues
- reduce regulation for arranging custody

Public Comments on CP 106

Received 13 sets of public comments – for which we are very thankful

Comprehensive and well thought through submissions – one composite submission, representing firms in the insurance sector

Mainly supportive of the proposals

Sought additional clarity and flexibility in some areas

Some Rep Offices asked that they be allowed to do more – under their current licences

Influenced changes to CP 106 proposals – where appropriate

Key Issues raised by public comments

Clarity and a level playing field relating to Long-Term Insurance

Whether a branch could undertake 'arranging' activities for its head office – without a licence

Whether firms arranging custody need safe custody reports

The scope of the Representative Office remit

Unauthorised Financial Promotions in the DIFC

The need for adequate transitional arrangements

Other issues – e.g. the use of Powers of Attorney

New Rules – a bespoke Financial Service for credit related arranging and advising

No change from CP 106 proposal

From 1 February 2017 – The New title – ‘Advising on Credit and Arranging Credit’

Firms advising on or arranging credit will have their licence changed to the new Financial Service

Public Register will be updated on 1 February 2017

No need to apply for a variation of a licence

No change to the current COB requirements or PIB categorisation as Cat 4

New Rules - 'arranging' activities

Public comments supported proposed perimeter Guidance on 'arranging' – which clarifies that 'arranging firms':

- facilitate transactions
- do not have authority to commit clients to transactions
- are not parties to transactions

Public comments raised concerns about 'branches'

New Rules (GEN 2.9.2, 2.19.2 & 2.28.2) clarify that a 'branch' office:

- cannot rely on the exclusions available to a 'transacting party'
- must have an 'arranging' licence, to be able to arrange transactions for its head office/another branch

New Rules – distinguish ‘Arranging Custody’ from ‘Providing Custody’

Guidance clarifies that:

a ‘provider’ of custody safeguards & administers Client Assets - and is legally accountable to the client for safe custody

an ‘arranger’ of custody is a facilitator – not accountable for safe custody of client assets

Disapply Client Asset provisions to firms ‘Arranging Custody’ except:

due diligence on foreign custodians to assess its suitability to hold client assets

disclosure re foreign custodians and different regimes

Remove the safe-custody auditor report requirement for firms Arranging Custody

with effect from 2016/2017

New Rules relating to Long-Term Insurance (LTI)

Public comments sought a level playing field for advising/arranging relating to LTI

Current Rules:

- permit investment firms to advice/arrange LTI
- prohibit Insurance Intermediaries to act in relation to insurance (unless reinsurance) if the risk is in the greater UAE

Under the New Rules:

- investment firms arranging/advising on LTI are subject to LTI specific conduct requirements
- the prohibition against Insurance Intermediaries is somewhat modified
- Insurance Intermediaries can give advice/arrange relating to LTI – but must have an endorsement on their licence
- Insurance Intermediaries/investment firms must meet applicable local requirements in the UAE

New Rules relating to Rep Offices

Public comments (other than on behalf of Rep Offices) gave strong support to CP 106 proposals

Rep Offices asked that they be allowed to undertake more activities (e.g. transmitting orders for clients) under their current licences

CP 106 proposals unchanged – no expansion of Rep Office remit

New Rules specify that a Rep Office is only permitted to:

- market financial services and products offered by a 'related party' (i.e. the head office or member of the Group) outside the DIFC
- Approve Financial Promotions of related parties

Extensive perimeter Guidance included in the Rep Module

Transitional provisions

Firms which have current authorisations to arrange credit or advice on credit are grandfathered into the new Financial Service – Public Register updated

See new GEN 10.3

Firms Arranging Custody do not have to submit safe custody auditor's report for 2016/2017

See new GEN 10.2

Going forward

If a firm needs a new type of Licence, as per the perimeter Guidance which now clarifies the boundaries – it will need to apply for such a Licence – fresh approval process is applicable

Rep Offices which conduct activities beyond their remit must cease and desist, or upgrade their Licence – a failure to do so will lead to appropriate enforcement procedures



Questions



Thank You