

**INTERIM PERMITTED GENERAL INSURANCE INTERMEDIARIES
INSTRUMENT 2005**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in:
- (1) article 4(1) of the Financial Services and Markets Act 2000 (Transitional Provisions) (General Insurance Intermediaries) Order 2004 (SI No 2004/3351) (“the Order”); and
 - (2) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 145 (Financial promotion rules);
 - (c) section 149 (Evidential provisions);
 - (d) section 156 (General supplementary powers);
 - (e) section 157(1) (Guidance);
 - (f) section 213 (The compensation scheme); and
 - (g) section 214 (General).
- B. Article 4(2) of the Order is relevant to the exercise of the powers set out in paragraph A(2) above because it provides that sections 155 (Consultation) and 157(3) (Guidance) of the Act do not apply to the rules and guidance set out in this instrument.
- C. The provisions listed above relevant to making rules are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- D. This instrument comes into force on 14 January 2005.

Citation

- E. This instrument may be cited as the Interim Permitted General Insurance Intermediaries Instrument 2005.
- F. The Annex to this instrument may be cited as the Directions, rules and guidance for Interim Permitted General Insurance Intermediaries.

Made under the authority of the Board and under article 4 of the Order

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Managing Director, Retail Markets
10 January 2005

Annex

Directions, rules and guidance for Interim Permitted General Insurance Intermediaries

In this Annex, new provisions relevant to interim permitted general insurance intermediaries (“IPGI”) are being introduced and they are not underlined.

1. Handbook and other requirements for Interim Permitted General Insurance Intermediaries

1.1 Application and purpose

1.1.1 R *IPGI* applies to *interim permitted general insurance intermediaries*.

1.1.2 G The purpose of *IPGI* is:

- (1) to make *rules* relating to disclosure of their regulated status by *interim permitted general insurance intermediaries*;
- (2) to direct, in accordance with article 4(1) of the *General Insurance Intermediaries Transitional Order*, that certain provisions of the *Handbook* that would otherwise apply to *interim permitted general insurance intermediaries*:
 - (a) are not to apply; or
 - (b) are to apply to them as modified in *IPGI*; and
- (3) to give ancillary *guidance* to *interim permitted general insurance intermediaries* as to the application of the *Handbook* to them.

1.2 Disclosure of interim permitted general insurance intermediary status

1.2.1 G *IPGI* 1.2 makes special provision for *interim permitted general insurance intermediaries* in place of *GEN* 1.2 (Referring to approval by the FSA). The purpose is to prevent *clients* being misled about the extent to which the *FSA* has approved a *firm's* affairs.

1.2.2 D The *FSA* directs that *GEN* 1.2 (Referring to approval by the *FSA*) does not apply to an *interim permitted general insurance intermediary*.

1.2.3 R (1) Unless required to do so under the *regulatory system*, an *interim permitted general insurance intermediary* must ensure that neither it, nor anyone acting on its behalf claims, in a public statement or to a *client*, expressly or by implication, that its affairs, or any aspect of them, have the approval of the *FSA* or that it is an *authorised person* for the purposes of the *Act*.

- (2) Paragraph (1) does not apply to statements by or on behalf of an *interim permitted general insurance intermediary* who is an *interim authorised general insurance person* that explain, in a way that is fair, clear and not misleading, that:
- (a) the *firm* is an *interim permitted general insurance intermediary*;
 - (b) the *firm's approved persons* are deemed to be approved by the *FSA* for the purposes of section 59 of the *Act* (Approval for particular arrangements) pending determination of the *firm's* application for authorisation;
 - (c) the *firm* has been given express written approval by the *FSA* in respect of a specific aspect of the *firm's* affairs.
- (3) Paragraph (1) does not apply to any statement by or on behalf of an *interim permitted general insurance intermediary* who is not an *interim authorised general insurance person* that explains, in a way that is fair, clear and not misleading, that:
- (a) the *firm* is an *authorised person*;
 - (b) as appropriate:
 - (i) the *firm* has *permission* to carry on a specific activity; or
 - (ii) the *firm* has *interim permission* to carry out a specific activity;
 - (c) as appropriate:
 - (i) one or more of the *firm's approved persons* has been approved by the *FSA* for the purposes of section 59 of the *Act* (Approval for particular arrangements); or
 - (ii) one or more of the *firm's approved persons* is deemed to be approved by the *FSA* for the purposes of section 59 of the *Act* (Approval for particular arrangements) pending determination of the *firm's* application for *permission*; or
 - (d) the *firm* has been given express written approval by the *FSA* in respect of a specific aspect of the *firm's* affairs.
- (4) Paragraph (1) applies with respect to the carrying on of both *regulated activities* and *unregulated activities*.

Required disclosures

- 1.2.4 R (1) An *interim permitted general insurance intermediary* who is an *interim authorised general insurance person* and who, in order to comply or to provide evidence of complying with a provision (including a provision mentioned in *IPGI 1.2.6R*) of the *Handbook*, discloses that he is authorised or regulated by the *FSA*, must also disclose that he is authorised or regulated on an interim basis only.
- (2) An *interim permitted general insurance intermediary* who, in the course of carrying on *general insurance mediation activity*, discloses that he is authorised or regulated by the *FSA*, must as part of that disclosure, and with equal prominence, disclose that the *FSCS* does not apply to any *general insurance mediation activity* that he undertakes.
- 1.2.5 E (1) An *interim permitted general insurance intermediary* should, in the circumstances mentioned in *IPGI 1.2.4R*, disclose that:
- (a) he is 'interim authorised under the Financial Services and Markets Act 2000' or 'interim regulated by the Financial Services Authority' or 'regulated by the Financial Services Authority as an interim authorised person' or use words to that effect; and
- (b) 'no compensation will be available from the Financial Services Compensation Scheme in the event that we are unable to meet our obligations under our general insurance business' or use words to that effect.
- (2) Compliance with (1) may be relied on as tending to establish compliance with *IPGI 1.2.4R*.
- (3) Contravention of (1) may be relied on as tending to establish contravention of *IPGI 1.2.4R*.
- 1.2.6 R Table Non-exhaustive list of provisions about status disclosure

This table belongs to *IPGI 1.2.4R*.

Provision	Topic
<i>ICOB 4.2</i>	Status disclosure requirements
<i>ICOB 4 Ann 1G</i>	
<i>ICOB 4 Ann 2R</i>	
<i>ICOB 8.3</i>	

1.3 Application of the Handbook to interim permitted general insurance intermediaries

- 1.3.1 G The *General Insurance Intermediaries Transitional Order* provides broadly that *interim permitted general insurance intermediaries* are to be treated, unless otherwise provided, as *authorised persons* for the purposes of the *Act* and of any provision made under the *Act* (see paragraph 5 of the Schedule to the *General Insurance Intermediaries Transitional Order*). As a result, the *Handbook* applies to *interim permitted general insurance intermediaries* and any *regulated activity* for which they are seeking *permission* is *regulated activity* for the purposes of the *Handbook*.
- 1.3.2 G Annex 2G to *ICOB 1* contains a list of the parts of the *Handbook* and their application to *insurance intermediaries*. This annex is also relevant to *interim permitted general insurance intermediaries*, with the modifications set out in *IPGI 1.3.3G*.
- 1.3.3 G Table Modifications to *ICOB 1* Ann 2G where the firm concerned is an interim permitted general insurance intermediary

This table belongs to *IPGI 1.3.2G*.

Part of Handbook	Extent of modification
Statements of Principle and Code of Practice for Approved Persons (<i>APER</i>)	Under article 3 of the <i>General Insurance Intermediaries Transitional Order</i> , special provision is made for <i>approved persons</i> carrying on controlled functions for <i>interim permitted general insurance intermediaries</i> .
General provisions (<i>GEN</i>)	<i>GEN 1.2</i> (Referring to approval by the <i>FSA</i>) does not apply to <i>interim permitted general insurance intermediaries</i> : see <i>IPGI 1.2.2D</i> . Instead, <i>IPGI 1.2.3R</i> makes provision about <i>interim permitted general insurance intermediaries</i> referring to approval by the <i>FSA</i> or <i>authorisation</i> for the purposes of the <i>Act</i> .
Insurance: Conduct of Business (<i>ICOB</i>)	<p>(1) This applies.</p> <p>(2) <i>IPGI 1.2.4R</i> makes special provision for required status disclosure by <i>interim permitted general insurance intermediaries</i>.</p> <p>(3) Paragraph 6 of the Schedule to the <i>General Insurance Intermediaries Transitional Order</i> provides broadly that an <i>interim permitted</i></p>

	<p><i>general insurance intermediary</i> is not authorised for the purposes of sections 21(1) (Restrictions on financial promotion) and 25(2)(a) (Contravention of section 21) unless the communication invites an agreement the making or performance of which constitutes a <i>controlled activity</i> corresponding to a <i>regulated activity</i> covered by his <i>interim general insurance permission</i>.</p>
<p>Authorisation manual (AUTH)</p>	<p>(1) Paragraph 2 of the Schedule to the <i>General Insurance Intermediaries Transitional Order</i> provides that for the purposes of section 20 (Authorised persons acting without permission) a person's <i>interim general insurance permission</i> is treated as having been given to him under Part IV of the <i>Act</i>.</p> <p>(2) Paragraph 3 of the Schedule to the <i>General Insurance Intermediaries Transitional Order</i> provides that an applicant's <i>interim general insurance permission</i> is to be disregarded for the purposes of sections 38(2) (Exemption orders), 40(2) (Application for permission), 42 (Giving permission), 43 (Imposition of requirements) and 44(1), (4) and (5) (Variation etc. at request of authorised person) of the <i>Act</i>.</p> <p>(3) Under article 3 of the <i>General Insurance Intermediaries Transitional Order</i>, special provision is made for <i>approved persons</i> carrying on controlled functions for <i>interim permitted general insurance intermediaries</i>.</p> <p>(4) The Schedule to the <i>General Insurance Intermediaries Transitional Order</i> provides broadly that <i>interim permitted</i></p>

	<p><i>general insurance intermediaries:</i></p> <p>(a) are to be treated, unless otherwise provided, as <i>authorised persons</i> for the purposes of the <i>Act</i> (see paragraph 5); and</p> <p>(b) may still be <i>appointed representatives</i> (and hence may be treated as exempt from the <i>general prohibition</i> as a result of section 39(1) for the purposes of section 42(3)(a) of the <i>Act</i> (see paragraph 7).</p>
Supervision manual (<i>SUP</i>)	See notes (2), (3) and (4)(b) to <i>AUTH</i> which are relevant to <i>SUP</i> 6, <i>SUP</i> 7, <i>SUP</i> 10 and <i>SUP</i> 12.
Compensation sourcebook (<i>COMP</i>)	<p>This does not apply:</p> <p>(1) to an <i>interim permitted general insurance intermediary</i> who is an <i>interim authorised general insurance person</i>; and</p> <p>(2) to an <i>interim permitted general insurance intermediary</i> who is not an <i>interim authorised general insurance person</i> in respect of his <i>general insurance mediation activities</i>.</p>

1.3.4 D The *FSA* directs that any special application or disapplication provisions in the *Handbook* are to apply to *interim permitted general insurance intermediaries* as nearly as possible as if the application for *permission* which gives rise to the *interim general insurance permission* has been granted in the terms applied for, including as if the *requirements* and *limitations* applied for (or otherwise required to give effect to the terms of the application) have already been included in that *permission*.

1.3.5 D The *FSA* directs that *COMP*:

- (1) does not apply to an *interim authorised general insurance person*;
- (2) does not apply to an *interim permitted general insurance intermediary* who is not an *interim authorised general insurance person* in respect of his *general insurance mediation activities*.

- 1.3.6 R In *COMP*, *relevant person* does not include:
- (1) an *interim authorised general insurance person*;
 - (2) in respect of his *general insurance mediation activities*, an *interim permitted general insurance intermediary* who is not an *interim authorised general insurance person*;
 - (3) an *appointed representative* of (1) or, in respect of *general insurance mediation activities* only, an *appointed representative* of (2).
- 1.3.7 G Where the *FSA* has given an *interim permitted general insurance intermediary* a *waiver* from a provision of the *Handbook*, the terms of that *waiver* are to be taken into account in determining the provisions of the *Handbook* that apply to that *interim permitted general insurance intermediary*.

2. Interpretation

2.1 GEN and Glossary apply

- 2.1.1 R The General provisions (*GEN*) of the *Handbook* and the *Glossary* made under the *Act* apply in the interpretation of *IPGI*, unless *IPGI* 1.2.2D applies.
- 2.1.2 R The terms in *IPGI* 2.1.3R are also defined for the purposes of *IPGI*.
- 2.1.3 R Terms defined for the purposes of *IPGI*

This table belongs to *IPGI* 2.1.2R.

Defined expression	Definition
<i>interim authorised general insurance person</i>	an <i>interim permitted general insurance intermediary</i> who is an <i>authorised person</i> only because he has an <i>interim general insurance permission</i> .
<i>interim general insurance permission</i>	a <i>Part IV permission</i> conferred by article 2 of the <i>General Insurance Intermediaries Transitional Order</i> .
<i>interim permitted general insurance intermediary</i>	a person who has an <i>interim general insurance permission</i> .
<i>IPGI</i>	Directions, rules and guidance for Interim Permitted General Insurance Intermediaries forming the Annex to the Interim Permitted General Insurance Intermediaries Instrument 2005 (FSA 2005/1).
<i>General Insurance Intermediaries Transitional</i>	The Financial Services and Markets Act 2000 (Transitional Provisions) (General

<i>Order</i>	Insurance Intermediaries) Order 2004 (SI 2004/3351).
<i>general insurance mediation activity</i>	(in accordance with article 1(3) of the <i>General Insurance Intermediaries Transitional Order</i>) any <i>regulated activity</i> of the kind specified by article 21, 25, 39A or 53 of the <i>Regulated Activities Order</i> , or article 64 of that Order in so far as relevant to that activity, which is carried on in relation to a <i>contract of insurance</i> which is not a 'qualifying contract of insurance' (as defined in article 3(1) of the <i>Regulated Activities Order</i>) or a <i>long-term care insurance contract</i> .