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Statement of Guidance Market Conduct – Insurers, Agents and Brokers

1. Statement of Objectives

- 1.1. To provide guidance on the requirement imposed on licensees by the Rule on Market Conduct.
- 1.2. To provide a standard of best practice to insurance licensees in conducting business with customers.

2. Introduction

- 2.1. The Insurance Law seeks to provide for stability within insurance markets thereby maintaining confidence in the relationship between customers, Insurers, Agents and Brokers.
- 2.2. There is a need for sound market conduct guidance to reinforce legislation, the Rule on Market Conduct and to provide basic standards of business conduct to strengthen consumer confidence and protection. Such guidance will provide direction as to what are legitimate and acceptable practices in the domestic insurance market.

3. Scope of Application

- 3.1. This Statement of Guidance applies to all Class A Insurers, Agents and Brokers licensed under the Insurance Law to carry on domestic insurance business.
- 3.2. This Statement of Guidance applies to Class B Insurers who write domestic business under the Insurance Law as approved by the Authority.

4. Guidance pertaining to Rule on Market Conduct

- 4.1. Complaints
 - 4.1.1 The system for complaints handling established by Insurers, Agents and Brokers should aim to deal with complaints of customers quickly, effectively and fairly. The required complaints process should be simple and equitable, to facilitate resolution effectively.
 - 4.1.2 The established system by Insurers, Agents and Brokers for handling complaints should include proper policies and procedures of record keeping for each complaint and the measures taken for its resolution.
- 4.2. Agents licensed under the Insurance Law may, as appropriate, receive their training from the insurers for which they act.
- 4.3. Insurers, Agents and Brokers should act in a timely manner, and employ all resources to ensure proper consideration of the customers needs.
- 4.4. Brokers should use their skill objectively in the best interest of the customer when recommending an insurer and product to the customer.



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5. Policy Wording, Disclosure and Assessing Customer Needs

- 5.1. Insurers, Agents and Brokers should pay due regard to the information needs of their customers and treat them fairly. This includes communicating:
 - 5.1.1 relevant and meaningful information in a timely and comprehensive manner to reasonably enable the customer to make a balanced and informed decision;
 - 5.1.2 the benefits and any risks of any particular product or contract to the customer in a fair and balanced way;
 - 5.1.3 the obligations of the parties involved, being the Insurers, Agents and Brokers and the customer, in a clear and understandable way.
- 5.2. Insurers, Agents and Brokers should take reasonable care that information is accurate in all material respects, easily understandable, not misleading, and available in writing or equally accessible electronic means.
- 5.3. In addition to the information that must be provided at the time of concluding the contract, the frequency with which additional information is to be disclosed during the course of the contract depends on the type of contractual arrangement. For example long term insurance could require disclosure on an annual or bi-annual basis whereas non-life annual insurance may not require any disclosure, other than on renewal.
- 5.4. Insurers, Agents and Brokers should seek from their customers all material information before giving advice or concluding a contract.

6. Claims Handling

- 6.1. In claims documentation sent to the policyholder, claim-determinative factors such as depreciations, discounts or policyholder negligence should be illustrated and explained in a comprehensive language.
- 6.2. Where Agents and Brokers serve as an initial contact for claimants, the insurer's responsibilities towards the policyholder is not diminished.
- 6.3. Insurers, Agents and Brokers should have appropriate technical and legal competence in claims settlement procedures and receive ongoing training.
- 6.4. Insurers, Agents and Brokers should be experienced in claims handling and appropriately qualified.
- 6.5. Insurers should not unduly influence the work of adjusters. Adjusters should be able to make recommendations, independent of insurers' instructions, on the settlement of individual claims.
- 6.6. Insurers, Agents and Brokers should ensure dispute resolution procedures follow a balanced approach, bearing in mind the legitimate interest of all parties involved. Procedures should avoid being overly complicated, such as having burdensome paperwork requirements. Decisions should include the reasoning in clear language relating closely to the specific disputable issues.



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7. Protection of Information

- 7.1. Generally, personal information refers to information that a person or entity collects, holds, uses or communicates to third parties in the course of its business.
- 7.2. Personal information should be considered as such regardless of its medium and the form in which it is accessible.
- 7.3. Information that a customer might reasonably expect to be confidential should be treated as such.
- 7.4. Insurers, Agents and Brokers should have the proper safeguards in place for collection, storage and processing of customers' confidential information and to prevent unauthorized access.
- 7.5. Insurers, Agents and Brokers should take measures to:
 - 7.5.1 provide necessary training to their employees and contractors at all levels in order to promote awareness of privacy protection requirements;
 - 7.5.2 implement internal control mechanisms that meet the objectives of privacy protection and support the achievement of those objectives;
 - 7.5.3 ensure that the appropriate technology is in place to manage the financial, medical and personal information of customers;
 - 7.5.4 implement policies and procedures relating to privacy protection in order to manage risks and threats pertaining to security breaches. Any security breaches should be notified, in a timely manner, to the relevant persons;
 - 7.5.5 implement policies and procedures relating to data security in order to be able to report, in a timely manner, security breaches to affected customers and superiors, and meet other relevant reporting requirements;
 - 7.5.6 assess the risks associated with any major breaches in security and mitigate the impacts of these on resources, operations, environment and reputation;
 - 7.5.7 determine the measures to be taken in light of the risks occurring from security breaches as part of business continuity planning; and
 - 7.5.8 ensure that group structures are not abused to circumvent prohibitions on the sharing of personal information.
- 7.6. Insurers, Agents and Brokers should be aware of outsourcing risk, especially when the outsourcing agreement is reached with firms in another jurisdiction. Insurers, Agents and Brokers should be aware of reputational risk arising from cross-border activities and ensure that the firms to which they outsource processes have sufficient safeguards in place to prevent the misuse or inappropriate communication of any personal information they have in their records.

8. Integrity

- 8.1. Insurers, Agents and Brokers should at all times act honestly and in a straightforward manner towards their customers.
- 8.2. Insurers, Agents and Brokers have an obligation to avoid misleading and deceptive acts or representations. They should also not seek to rely unreasonably on any provision of the contract seeking to exclude or restrict any such duty or liability.



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- 8.3. Insurers, Agents and Brokers should seek to minimize the risk of any conflicts of interest arising, for example through the holding of Powers of Attorney or Trusteeships or any situation whereby the Agent or Broker is able to exert a significant influence over the customer.
- 8.4. Brokers are the representative of the insured at all times and should act accordingly. Brokers should at all times conduct business with utmost good faith and integrity and should provide advice objectively and independently in the best interests of the insured.
- 8.5. Where the interests of the Agent or Broker conflicts with the interests of the insured, they should decline to act or withdraw from the relationship unless after full disclosure of the conflicting interests, all relevant parties including the insured, agree in writing that they should continue.
- 8.6. The relationship with customers should be one of trust and utmost good faith.

9. Care, Skill and Diligence

- 9.1. In conducting their business activities, Insurers, Agents and Brokers should act with due care, skill and diligence.
- 9.2. Due (or reasonable) care is the degree of care that a prudent and competent person engaged in the same line of business or endeavour would exercise under similar circumstances.
- 9.3. Insurers, Agents and Brokers have a duty to act competently and diligently with regard to all transactions between themselves and the customer.