



MARKET CONDUCT CODE FOR THE INSURANCE BROKERS

FINANCIAL SERVICES AUTHORITY

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1. INTRODUCTION

The Financial Services Authority (herein referred to as “the Authority”) has a mandate to develop, formulate and enforce supervisory standards for the conduct of insurance and reinsurance businesses in Seychelles.

The Authority endeavors to have a mechanism for potential policyholders to have access to all material information before the conclusion of an insurance contract, to receive advice in a correct and meaningful manner in assessing their insurance requirements, to be informed about their rights and obligations for the duration of the contract, to be confident that they will provide correct and timely assistance from brokers to their clients in the event of a claim.

It is imperative to note that for a large number of market participants insurance products are difficult to understand and evaluate. They take the form of contractually agreed promises by the insurer to provide benefits or compensation (indemnity) to cover specified events or risks in exchange for certain obligations by the policyholder. As a result it is important for customers to have relevant, meaningful and understandable information, as far as possible in writing.

The Authority recognizes the role of brokers in the conduct of the insurance business and appreciates that only by them observing the code shall provide confidence and penetration in the insurance industry to be boosted.

The Authority further recognizes the fact that the brokers reflect the image of the insurance industry and their conduct is pivotal to the development of the industry.

It is important for brokers to have continued relationship with their clients even after the signing of the insurance contract or provision of service. Policyholders have a right to deal with honest, trustworthy and knowledgeable intermediaries.

The Authority hereby issues the code set out below, for observance by all insurance brokers in Seychelles, in order to enhance internationally acceptable insurance market conduct practices by the insurance brokers.

2. APPLICATION

2.1 This code shall apply to all insurance brokers authorized by law to carry out insurance business as intermediaries under the Insurance Act, 2008 (herein referred to as “the Act”).

2.2 All the brokers licensed under the Insurance Act, 2008 by the Authority shall be required to adhere to this code in their conduct of the insurance business.

3. DEFINITION

The following key definitions apply:

“**address**” means the point of contact and it includes the post office box, physical location, e-mail, fax and fixed/mobile telephone number;

“broker service” means any act performed by a person for or on behalf of a client or an insurer in the course of his professional service.

“customer/clients” means a policyholder and or potential policyholder.

“insurance broker” means a person who works for the policyholder in the insurance process, acting on behalf of the client, independent of insurers.

“insurance intermediation” means the promoting or facilitating of an insurance contract between an insurer and a purchaser, selling or attempting to sell insurance on behalf of an insurer, asking or urging potential purchaser to apply for a particular insurance product, or conferring with or giving advice to a potential purchaser concerning a particular insurance product by a person or entity who sells or arranges the insurance contract. Activities by an insurer are not included.

“intermediary service” means any act performed by a person for or on behalf of a client or an insurer:

- (a) The result of which is that a client may enter into any transaction in respect of an insurance contract with an insurer; or
- (b) With a view to –
 - (i) buying, selling or otherwise dealing in, managing, administering, keeping in safe custody, maintaining or servicing an insurance contract entered into by a client from an insurer;
 - (ii) collecting or accounting for premiums or other moneys payable by the client to an insurer in respect of an insurance contract; or
 - (iii) Assist in the handling of claims.

4. OBJECTIVES

4.1 This code sets out the market conduct and service standards expected of insurance intermediaries. They are meant to provide general guidance and are not intended to replace or override any legislative provisions or written directives issued under the Insurance Act in respect of business conduct requirements specifically applicable to insurance brokers.

4.2 This code should be read in conjunction with the provisions of the Act as well as notices, circulars and other codes that the Authority may issue from time to time.

4.3 Insurance intermediation involves the interface between insurers and customers. Effective assessment of the quality of insurance intermediation to a large extent requires supervisory consideration of policies, processes and procedures that relate to individual customer relationships and individual transactions.

5. PRINCIPLES FOR CONDUCT OF INSURANCE BUSINESS

5.1 Client Relationship

- 5.1.1 A broker shall observe high standards of integrity and fair dealing in the conduct of its business.
- 5.1.2 A broker has an obligation to avoid misleading and deceptive acts or misrepresentations to the client. It should not seek to exclude or restrict any duty or liability to a customer that it has under a legislative framework and/or accepted practices. Additionally, it should not seek to rely unreasonably on any provision of a contract seeking to exclude or restrict any such duty or liability.
- 5.1.3 A broker shall act with due skill, care, and diligence in the conduct of its business and in its dealings with customers.
- 5.1.4 A broker shall ensure that the client understands his/her relationship with the broker and on whose behalf the broker is acting.
- 5.1.5 In assessing the customers' needs, the broker shall:
 - (a) Seek such information about the customer's circumstances and objectives as might reasonably be expected to be relevant in enabling the insurance broker to identify the customer's requirements. This shall include any facts that would affect the type of insurance proposed, such as any relevant existing insurance contract; and
 - (b) Explain to the customer his duty to disclose all circumstances material to the insurance and the consequences of any failure to make such a disclosure, both before the insurance contract commences and throughout the duration of the contract; and take into account the information that the customer discloses.
- 5.1.6 Where a broker is responsible for providing advice for its customers, it must seek from them such information about their circumstances and objectives as may be appropriate with regard to the services requested. Documentary evidence must be obtained in this respect.
- 5.1.7 All information in possession of a broker relating to a client shall be kept confidential. A broker shall adopt documented policy and procedures that are designed to ensure that information about the client is kept confidential and secure.

5.2 Sales Conduct

- 5.2.1 A broker must take reasonable steps to ensure that, if in the course of insurance negotiation, it makes any personal recommendation to a customer to buy an insurance product, the personal recommendation is suitable for the customer's needs at the time the personal recommendation is made.

- 5.2.2 Where the broker makes personal recommendation to the customer that does not meet all of the customer's needs as requested, the broker shall identify to the customer, at the point at which the personal recommendation is made, the needs that are not met by that insurance product.
- 5.2.3 The personal recommendation to be given by the broker should be based on the fact given by the customers and on the customer's existing insurance cover. If the broker is aware that the customer's existing insurance cover is likely to significantly affect the suitability of any personal recommendation that the insurance broker might make, the broker must either:
- (a) Not make a personal recommendation until details of the insurance cover are made available; or
 - (b) If it makes a personal recommendation, make clear to the customer that this may not be suitable because the broker has not taken into account full details of the customer's existing insurance cover.
- 5.2.4 In assessing whether an insurance product is suitable to meet a customer's needs, an insurance broker must take into account at least the following matters:
- (a) Whether the level of cover is sufficient for the risks that the customer wishes to insure;
 - (b) The cost of the product, where this is relevant to the customer's needs; and
 - (c) The relevance of any exclusion, excess, limitations or conditions in the contract.
- 5.2.5 A broker shall explain when and how the premium is payable and how such premium is to be collected and explain the process to follow in the event of a loss.
- 5.2.6 A broker while making a sale to a client shall ensure that the customer when completing the proposal form they provide with the correction information in line with the principle of 'utmost good faith' and sign the document.

5.3 Disclosure of Information to Customers

- 5.3.1 A broker shall provide clients with adequate information about their business including their business address and telephone number.
- 5.3.2 When providing advice to, or arranging contracts of insurance for the client, a broker shall make full and adequate disclosure of all facts necessary for their clients to make an informed decision.
- 5.3.3 A broker shall ensure that the consequences of non-disclosure and inaccuracies are pointed out to the prospective client and explain to the client the importance of disclosing

all subsequent changes that might affect the insurance throughout the duration of the policy.

- 5.3.4 The broker shall disclose on behalf of its client all material facts within its knowledge and give a fair presentation of the risk.
- 5.3.5 A broker shall avoid influencing the prospective client and make it clear that all the answers or statements given are the latter's own responsibility.
- 5.3.6 A broker shall ask the client to carefully check details of information given in the documents and request the client to make true, fair and complete disclosure where it believes that the client has not done so and in case further disclosure is not forthcoming it should consider declining to act further.
- 5.3.7 A broker shall explain all the essential provisions contained in the contract of insurance which they are recommending so as to ensure as far as possible that their client understands what insurance cover they are buying.
- 5.3.8 A broker shall draw their client's attention to any conditions or any exclusions and any warranty applying to the contract of insurance.
- 5.3.9 A broker shall, disclose the amount of commission and, or fee paid by the insurer under any relevant contract of insurance the client is buying.
- 5.3.10 The broker shall provide the customer the following information before the conclusion of the insurance contract:
 - (a) Name of the insurer undertaking the risk;
 - (b) Type of insurance;
 - (c) Significant features and benefits of the policy;
 - (d) The premium to be paid by the customer for the insurance product;
 - (e) Notice of the possibility that other taxes or costs and, or benefit may exist in respect of the insurance contract;
 - (f) The existence of the right of cancellation and, where applicable, the duration of the cancellation period and the conditions for exercising the right to cancel, including information on penalties that may arise thereon;
 - (g) A telephone number or address through which a claim may be notified; and
 - (h) That any other information as may be required is available on request.

5.4 Explanation of Information in the Contract

5.4.1 Every broker shall:

- (a) Provide the list of insurer(s) participating under the insurance contract and advise any subsequent changes thereafter.
- (b) Explain all the essential provisions of the cover afforded by the policy recommended by the broker so that, as far as possible, the prospective client understands what is being purchased.
- (c) Quote terms exactly as provided by insurer.
- (d) Draw attention to any warranty imposed under the policy, major or unusual restrictions and exclusions under the policy and explain how the contract may be cancelled.
- (e) Provide the client with prompt written confirmation that insurance has been effected. If the final policy wording is not included with this confirmation, the same shall be forwarded expeditiously.
- (f) Notify changes to the terms and conditions of any insurance contract and give reasonable notice before any changes takes effect; provided that no change shall be valid unless consented to by all parties.
- (g) Advise their clients on the consequences of surrendering the policy in its early years.

5.5 Premium handling

5.5.1 Every insurance intermediary:

- (a) has a legal responsibility with respect to the premiums received or collected as insurance agents and brokers.
- (b) must arrange adequate protection for client's funds when they are responsible for them.
- (c) ensure that reasonable care is taken to organize and control its affairs responsibly and effectively, with adequate administrative systems.

5.5.2 A broker is required to maintain a separate bank account for its customers and adequate records of the amount of money transacted must be maintained and made available to the Authority when requested.

5.5.3 Money received by a broker must be paid to the insurer directly or into the insurer's specified bank account within seven (7) working days of receiving the money.

- 5.5.4 All premiums collected and received by a broker from a policyholder must be used solely for the purpose it is intended for; settlement of premiums owed to the insurers for the purchase of an insurance contract.
- 5.5.5 As part of effective record keeping, a broker must retain receipt books. Original receipts must be provided to policyholders as proof of payment and copies of the receipt must be sufficiently kept to show and explain the intermediary's transactions and commitments in respect of its client's money.
- 5.5.6 All cheques received issued by policyholders as settlement of premiums must be made payable to the insurance company.
- 5.5.7 A broker must not remit, on behalf of clients, payment for premiums or other transactions using their personal cheque.
- 5.5.8 In the event an insurer issues premium refund to a policyholder, the money must be promptly returned to the client or other authorised persons on whose behalf the money is held within three (3) working days.
- 5.5.9 A broker must ensure that they adhere to the terms and conditions of their brokers' agreements with their respective insurers.

5.6 Renewal of Insurance Policy

- 5.6.1 Every broker shall;
 - (a) Ensure that its client is informed in writing of the expiry date of the insurance policy not less than one month before the expiry date. Provided where the services of the broker are terminated by the insurer in a manner that it will not be possible for such broker to give the information of the expiry of the policy, the responsibility to provide such information shall lie with the insurer.
 - (b) Ensure that renewal notices contain a notification regarding the duty of disclosure including the necessity to advise changes affecting the policy, which have occurred since the policy inception or the last renewal date.
 - (c) Draw attention and explain the contents of the renewal notices as issued by the insurer.
 - (d) Ensure that renewal notices contain a requirement for keeping a record (including copies of letters) of all information supplied to the insurer for the purpose of renewal of the contract.

5.7 Claims Handling

5.7.1 Every broker shall:

- (a) Explain to its clients their obligation to notify claims promptly, to disclose circumstances surrounding the loss and advise subsequent developments as soon as possible.
- (b) Inform the clients of the claims supporting documents that shall be required by the insurer at the time of making the claim.
- (c) Where loss notification is received by an insurance intermediary, such notification shall immediately be transmitted to the insurer, provided that an intermediary who contravenes the provision of this clause shall be liable for any of the enforcement mechanisms as prescribed by this code.
- (d) Request the client to make true, fair and complete disclosure where it believes that the client has not done so and explain the consequences of such non-disclosure.
- (e) Give prompt advice to the client of any requirements concerning the claim.
- (f) Forward any information received from the client regarding a claims or an incident that may give rise to a claim without delay, and in any event within seven (7) days.
- (g) Advise the client without delay of the insurer's decision and give all reasonable assistance to the client in pursuing the claim.
- (h) Where there is any dispute arising out of the payment of the claim, advise the client on any mechanisms available to resolve the dispute in accordance with the terms of the policy.
- (i) Give prompt advice to the client of any requirements concerning the claim;
- (j) Forward any information received from the client regarding a claim or an incident that may give rise to a claim without delay, and in any event within three working days;
- (k) Advise the client without delay of the insurer's decision or otherwise of a claim; and give all reasonable assistance to the client in pursuing his claim;
- (l) Provided that the insurance broker shall not take up recovery assignment on a policy contract which has not been serviced through him or should not work as a claims consultant for a policy which has not been serviced through him.

5.8 Complaints Handling

- 5.8.1 Insurance brokers shall develop a complaint handling mechanism and communicate the same to every proposer or policyholder and shall include provision for:
- (a) Handling complaints in a fair, timely and appropriate manner;
 - (b) Addressing the complaints promptly;
 - (c) Acknowledgement of complaints;
 - (d) Maintenance of complaints register containing the details of complaints received and how they have been dealt with;
 - (e) Have designated staff to handle such complaints;
 - (f) Ensure steps are taken to investigate such complaints, to respond promptly to the complainants concerned and to take any remedial action as appropriate;
 - (g) Advise complainants of the proper avenue for the complaints (including referral of the matters to the IA, 2008) if the complaints cannot be resolved to the complainants' satisfaction by the broker company;
 - (h) Respond to, cooperate and deal with relevant regulatory authorities in the handling of complaints and provide assistance to the relevant insurers to resolve such complaints.
 - (i) Ensure diligent monitoring of complaints.
- 5.8.2 The insurance broker conduct in respect to receipt of complaints shall include and not limited to:-
- (a) Ensure that letters of instruction, policies and renewal documents contain details of complaints handling procedures; accept complaints either by phone or in writing;
 - (b) Acknowledging a complaint within two (2) working days from the receipt of correspondence, advise the member of staff who will be dealing with the complaint and the timetable for dealing with it;
 - (c) ensuring that response letters are sent and inform the complainant of what he may do if he is unhappy with the response; ensure that complaints are dealt with at a suitably senior level;
- 5.8.3 Insurance brokers shall ensure that they diligently exhaust all reasonable avenues for dealing with complaints prior to reporting to the Authority for further resolution.

5.9 Documentation

- 5.9.1 The broker shall ensure that the documents issued under the insurance contract comply with both statutory and regulatory requirements.
- 5.9.2 The broker shall ensure that the policy document is sent to the client as soon as the proposal of the client is accepted by the insurer, provided that:
- (a) The policy document shall be sent not later than fourteen days from the date of receipt from the insurer;
- 5.9.3 The broker shall take an acknowledgement note signed and dated from the client acknowledging the receipt.
- 5.9.4 The broker shall;
- (a) Make available, with policy documentation, advice that the documentation shall be read carefully and retained by the client;
 - (b) Not withhold documentation from its clients without their consent, unless adequate and justifiable reasons are disclosed in writing and without delay to the client. Where documentation is withheld, the client must still receive full details of the insurance contract;
 - (c) Acknowledge receipt of all monies received in connection with an insurance policy;
 - (d) Ensure that the reply to any queries by clients are sent promptly or use its best endeavors to obtain a prompt reply to all correspondence;
 - (f) Ensure that all written terms and conditions are fair in substance and set out, clearly and in plain language, client's rights and responsibilities; and
 - (g) Subject to the payment of any monies owed to it, make available to any new insurance broker instructed by the client all documentation to which the client is entitled and which is necessary for the new insurance broker to act on behalf of the client.
- 5.9.5 The insurance broker shall keep an updated list of all their clients, and make available such list to the Authority as and when requested.

5.10 Records Keeping

- 5.10.1 A licensed insurance broker company should establish proper controls and procedures to ensure that records in relation to the regulated activities it carries out (including the regulated activities carried out on its behalf, by its licensed insurance technical representatives (broker) are kept, so as to comply with the record keeping requirements of all laws, rules, regulations, codes and guidelines applicable to the carrying on of regulated activities by the licensed insurance broker company.
- 5.10.2 The insurance broker shall ensure that Know Your Clients (“KYC”) documentation are recorded in accordance to relevant laws and regulations.
- 5.10.3 Ensure that KYC checks are conducted on a regular basis and kept up to date.

6 REMUNERATION

The basis of remunerating the broker shall be by means of a commission and/or fees as provided in the Insurance Act or as may be specified by the Authority from time to time.

7 EMPLOYEES

- 7.1 The broker depending on their business size can employ salaried employees to work and/or manage the affairs and act on their behalf of the brokerage firm to represent clients.
- 7.2 In the event, that there are no salaried employees, only the fit and proper Directors of the brokerage firm are allowed to manage the affairs and represent clients on behalf of the brokerage firm.
- 7.3 A broker should have procedures to assess the integrity of those intermediating on their behalf and these should include pre-employment as well as ongoing checks.

8 ACCOUNTABILITY OF MANAGEMENT AND EMPLOYEES

- 8.1 The management and senior employees of a licensed insurance broker company, who oversee the business of regulated activities carried on by the broker company, should ensure (and should be accountable for ensuring) that the controls and procedures are in place and effective as may be prescribed by the Authority
- 8.2 Management and employees shall be dealt with accordingly for not adhering to the controls and procedures in place.
- 8.3 The insurance broker shall ensure that at least one (1) director shall work on a full-time basis employment basis.

9 TRAINING

- 9.1 A broker shall be required to possess relevant knowledge and skills in insurance as may be prescribed by the Authority.
- 9.2 A broker shall act with competence and strive to maintain the necessary knowledge and expertise necessary for the proper conduct of their business activities.
- 9.3 Individual insurance agents, sub agents and principal officers of brokerage firm shall be required to pass or to be exempted from any insurance qualification as the Authority may determine from time to time.
- 9.4 Insurance brokers shall ensure that the staffs employed or so appointed are suitably qualified and competent, and the person possesses the relevant professional training or experience to act in the capacity so employed.
- 9.5 Every broker shall ensure that:
- (a) Its staff are aware of and adhere to the standards expected of them by this code;
 - (b) Ensure that staff are competent, suitable and have been given adequate training;
 - (c) Ensure that there is a system in place to monitor the quality of advice given by its staff;
 - (d) Ensure that members of staff are aware of legal requirements including the Insurance Act, 2008 affecting their activities; and only handle classes of business in which they are competent;

10 CONFLICT OF INTEREST

- 10.1 A broker shall avoid any conflict of interest arising, and where one arises disclose and decline to act.
- 10.2 A broker shall not place its interest above those of its customers.
- 10.3 A licensed insurance broker should use best endeavors to avoid conflicts of interests and when such conflicts cannot be avoided, the broker should manage them with appropriate disclosure to ensure clients are treated fairly at all times.
- 10.4 The directors or an employee of a licensed insurance broker shall not offer and/or provide any other professional services which includes but is not limited to accounting and auditing to another licensed insurance broker.

11 RESTRICTIONS ON INSURANCE BROKER BUSINESS

Insurance brokers are restricted to placing insurance business with licensed insurance company in Seychelles only.

12 DISPLAY OF NOTICE

Every broker shall display in every office where it carries on business and to which the public have access, a notice to the effect that a copy of this code is available upon request.

13 ENFORCEMENT

The Authority shall enforce compliance to this code by exercising its powers to any brokers who contravene this code or take any other measure as prescribed in the Insurance Act, 2008 and/or the Financial Services Authority Act, 2013.

14 EFFECTIVE DATE

The effective date of this code is **1st June 2023**

15 ENQUIRY

Enquiries on any aspect of this code shall be referred to:

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