



TURKS & CAICOS ISLANDS FINANCIAL SERVICES COMMISSION MARKET CONDUCT GUIDELINES FOR DOMESTIC¹ INSURANCE COMPANIES AND INSURANCE INTERMEDIARIES

1. INTRODUCTION

Purpose

- 1.1. The objective of these guidelines is to set the minimum requirements for the conduct of insurance business by domestic insurers and insurance intermediaries licensed under the Insurance Ordinance to transact insurance business in or from within in the Turks and Caicos Islands (“TCI”). These guidelines are not intended to be exhaustive, however they represent best practices or minimum standards that all insurers, licensed to write domestic insurance policies, and all insurance intermediaries, who advise or place domestic insurance business, should uphold in order to ensure insurance customers are treated fairly.

- 1.2. Market Conduct deals with the relationship between the insurer, the intermediaries who act on behalf of the insurer and the insurance customer. Confidence in the domestic insurance market will be eroded if insurers, although having the ability to meet obligations, refuse to meet those obligations or meet their obligations in a less than satisfactory manner, in the opinion of the customer.

- 1.3. The role of the Turks and Caicos Islands Financial Services Commission (“the Commission”) is to carry out market conduct supervision, to ensure insurers and intermediaries:

¹ Domestic Insurer: An insurer whose principal objective is to insure risks in relation to:

- (a) a person who, at the time of effecting the contract, is ordinarily resident in the Islands; or
- (b) property that, at the time of effecting the contract, is in the Islands or, in the case of a vehicle, vessel or aircraft, or other movable property is ordinarily based in the Islands.

- exercise skill, care and diligence, act in good faith, and in the best interests of the customer;
- implement internal policies and procedures that promote appropriate conduct;
- do not engage in manipulative or deceptive conduct or disseminate false or misleading information;
- provide full disclosure of all relevant information to the customer; and
- facilitate prompt payment of legitimate claims made by the customer.

Authority

- 1.4. These guidelines are issued pursuant to section 43 of the Financial Services Commission Ordinance to provide guidance as to the conduct expected by the Commission of insurers and intermediaries operating in or from within the TCI.

2. DEFINITIONS

- 2.1. *Customer* means a person to whom an insurer or insurance intermediary provides a service or sells an insurance policy, and includes policyholders.
- 2.2. *Insurer* means an insurance company, licensed under section 4 of the Insurance Ordinance.
- 2.3. *Intermediary* means an insurance broker, insurance agent, insurance sub-agent, insurance manager, or principal insurance representative, licensed under section 4 of the Insurance Ordinance.

3. FAIR TREATMENT OF CUSTOMERS

- 3.1. Insurers and intermediaries should act with due skill, care and diligence when conducting business with or on behalf of customers. This involves performing their duties in such a manner that can reasonably be expected from a prudent and competent person.

3.2. Insurers should establish and implement policies and procedures on the fair treatment of customers, which form an integral part of their business culture, as well as, take appropriate measures to ensure that their employees and agents meet high standards of ethics and integrity.

3.3. Fair treatment of customers includes:

- paying due regard to the interest of customers, in developing and marketing insurance products;
- providing customers with clear information before, during and after the sale of insurance products;
- reducing the risk of selling insurance products which are not appropriate to the customers' needs;
- ensuring that the advice being given is of a high quality;
- providing service to the customer including complaint resolution in a timely manner;
- avoiding conflicts of interest and ensuring that potential conflicts of interest are properly managed; and
- protecting the privacy of information obtained from customers.

3.4. Insurers and intermediaries should have formal policies and procedures dealing with the fair treatment of customers, including procedures on claims handling and complaints handling. These policies and procedures should be made available to the Commission upon request.

3.5. Insurers and intermediaries should adopt policies and procedures to identify and manage conflicts of interest. Conflicts of interest arise where a party has competing professional and personal interests. If intermediaries who represent the interests of customers receive inducements from insurers or from other third parties, this could result in a conflict of interest that could affect the independence of advice given by them. Where a conflict of interest arises, the insurer or intermediary should ensure fair treatment of customers through appropriate disclosure and informed consent from customers. Where conflicts of interests cannot be managed satisfactorily, the insurer or intermediary should decline to act.

4. INFORMATION ABOUT INSURANCE PRODUCTS

4.1. Insurers are responsible for providing information that is accurate, clear and not misleading to customers, as well as, intermediaries who may rely on this information in providing advice to customers.

4.2. The information provided should:

- be understandable;
- be consistent with the result reasonably expected to be achieved by the customer;
- clearly state the basis for any claimed benefits and any significant limitations; and
- not hide, diminish or obscure any important statements or warnings.

4.3. Where the insurer or intermediary becomes aware that the information provided is inaccurate or is misleading, the information should be withdrawn and notification given as soon as reasonably practicable, to all persons relying on the information.

4.4. Insurers and intermediaries should take steps to ensure that a customer is given appropriate information about a policy, in a timely manner, to enable an informed decision to be made before entering into a contract of insurance.

4.5. Product information should be provided in writing or other durable medium. Written acknowledgment from customers, that they have received and understood the information provided, should be obtained.

4.6. The wording for all insurance policies sold in the TCI should clearly indicate that the policy is subject to the jurisdiction of the courts in the TCI.

4.7. Insurers and intermediaries should ensure that any advertisement, statement, brochure or other similar document is not misleading and does not contain incorrect information.

4.8. Insurers are required to submit a specimen copy of insurance policies to the Commission for approval prior to the marketing and sale of new insurance products within the TCI. Changes to

existing products are also subject to the written approval of the Commission. The proposed policy wordings and all advertising materials intended for customers should be submitted to the Commission for review.

4.9. Insurers should provide information on key features of products such as the level of premium the due-date and the period for which the premium is payable, as well as, the consequences of late or non-payment.

4.10. The insurer should provide enhanced disclosure for *bundled* products; that is, where a policy is bought in connection with another policy or combining two policies into one policy. The premiums for each benefit (both main benefits and supplementary benefits) should be disclosed separately. Also, it should be made clear to the customer whether buying a particular policy is compulsory.

4.11. Insurers and intermediaries should not engage in the practice of *tied selling*, with respect to insurance; that is, making the issuance or variation of an insurance policy conditional upon the purchase by the customer of another insurance policy. Such practice is unfair and deceptive.

5. POLICY SERVICING

5.1. Insurers are required to have sufficient safeguards in place to ensure that obligations under a policy are satisfied in an appropriate manner, following the sale of a policy. The same should apply to intermediaries where they participate in the policy servicing tasks. These safeguards include:

- disclosure of information to the policyholder on any contractual changes during the life of the policy contract;
- disclosure to the policyholder, of any further relevant information required depending on the type of insurance product; and
- disclosure of information to the policyholder in the case of switching between products or early cancellation of the policy.

- 5.2. General insurers and intermediaries acting on their behalf should maintain evidence, in writing, to show that the nature and effect of the “pro rata condition of average” (the Average Clause) was explained to the customer before the contract of insurance was entered into.
- 5.3. Insurers should provide evidence of cover (including policy inclusions and exclusions) promptly after inception of a policy. Where there are changes in terms and conditions, the insurer should notify the policyholder of their rights and obligations regarding such changes and obtain the policyholder’s consent as appropriate.
- 5.4. Information to be disclosed to customers about the insurer during the life of the policy include:
- any change in the name of the insurer, its legal form or the address of its head office and any other offices as appropriate;
 - any acquisition by another undertaking resulting in organizational changes; and
 - where applicable, information on a portfolio transfer (including policyholders’ rights in this regard).

6. CLAIMS HANDLING

- 6.1. Insurers should maintain written documentation on their claims handling procedures, which include all steps from the claim being raised to settlement of the claim, as well as, the expected timeframes.
- 6.2. Non-contentious claims should be settled as soon as possible. All other claims should be thoroughly investigated and settled within a reasonable time frame.
- 6.3. Claimants should be informed about the procedures and timeframes for claim settlement and should be given information about the status of their claim in a timely and fair manner.

- 6.4. Staff handling claims disputes should be experienced in claims handling and be appropriately qualified. Adjusters should be able to make recommendations, independent of the insurers' instructions, on the settlement of individual claims.
- 6.5. Where intermediaries serve as initial contact for claimants, this does not diminish the insurer's responsibilities.

7. COMPLAINTS HANDLING

- 7.1. An accumulation of complaints against an insurer or intermediary indicates possible grievances in certain areas. Therefore, the ongoing analysis of policyholders' complaints is a key indicator of the quality of an insurer's or intermediary's conduct of business.
- 7.2. Proper complaints handling policies and procedures would include record keeping for each complaint and the measures taken for its resolution. Such policies and procedures should be made available to intermediaries acting on behalf of the insurer. Regular monitoring of complaints received by the intermediary should be undertaken by the insurer.
- 7.3. The Commission may request information on complaints against the insurer and their resolution in assessing the quality of management and corporate governance of the insurer.

8. PROTECTION OF CUSTOMERS' INFORMATION

- 8.1. Insurers and intermediaries should have sufficient safeguards in place to prevent the misuse or inappropriate communication of any personal information of customers in its records.
- 8.2. Due to the importance and sensitivity of personal information, insurers and intermediaries should take measures to protect customers' privacy such as:
- develop policies and procedures relating to privacy protection and data security;
 - provide necessary training to their employees at all levels of the organisation, in order to promote awareness of privacy protection requirements;

- implement internal control mechanisms that meet the objectives of privacy protection, such as segregation of duties;
- ensure that the appropriate technology is available and in place to adequately manage and restrict access to customers' personal information.

8.3. Customer's personal information is protected by section 4 of the Confidential Relationships Ordinance, which makes it an offence to divulge confidential information, obtained by way of business or professional relations. Furthermore, in accordance with the Commission's Fit and Proper Guidelines, the Commission will take into account a person's past record of compliance with relevant laws, rules, regulations, Codes or Guidelines, whether in the TCI or overseas, when assessing whether an individual is a "fit and proper" person.

9. INSURANCE INTERMEDIARIES

9.1. Where a licensed domestic insurer does not have a physical presence in the TCI, that insurer is required to take responsibility for the appointment and activities of the intermediary authorized to conduct insurance business on its behalf. In this regard, insurers should ensure the following:

9.1.1. There is a written agreement between the insurer and the intermediary, which clearly outlines the terms of the relationship and the scope of the intermediary's authority to act on behalf on the insurer. A signed copy of this agreement and any subsequent amendments should be submitted to the Commission.

9.1.2. Training is provided to the authorized intermediary on all the features of the insurance products, to enable the intermediary to clearly explain to the customer, the benefits and risks inherent in the product(s).

9.1.3. The authorized intermediary provides prospective customers with the name of the insurer represented by the intermediary and the type of product(s) the intermediary is authorized to sell or to advise the customer, on behalf of the insurer.

9.1.4. Regular monitoring of the performance of the intermediary, including complaints made against the intermediary, with respect to advice given or sales made by the intermediary on behalf of the insurer.

9.2. An insurance intermediary should not solicit or negotiate insurance business on behalf of an unlicensed insurer.

9.3. An insurance broker should not solicit or negotiate insurance business on behalf of a customer, with an unlicensed insurer unless Special Dispensation was applied for by the broker and granted by the Commission.

9.4. An insurance agent may only act on behalf of a single licensed insurer and a licensed sub-agent may only act on behalf of a single agent.

10. DISPLAY OF LICENCE

10.1. Insurers which have a physical presence in the TCI must display their valid licence, or a certified copy of the licence, in a conspicuous position at its head office and branch office(s) in the TCI.

10.2. An insurance intermediary must display in a conspicuous position at every office it maintains in the TCI, its valid licence, as well as, a certified copy of the licence of the insurer(s) it is authorized to conduct insurance business on behalf of.

11. EFFECTIVE DATE

All licensed insurance companies and intermediaries are required to comply with these Guidelines, effective **1st March, 2015**.