

Licensed Insurers' Code of Conduct

THE GUERNSEY FINANCIAL SERVICES COMMISSION, in exercise of its powers conferred on it by section 78 of The Insurance Business (Bailiwick of Guernsey) Law, 2002, as amended, hereby issues the Licensed Insurer's Code of Conduct.

1 Introduction

- (a) This Code applies to all insurers licensed to write **domestic business** in or from within the Bailiwick of Guernsey and sets out the minimum standards of good practice for market conduct activity.
- (b) For clarification, this Code does not apply to licensed insurers writing international life business, who will be covered by the Code of Conduct for Insurers Conducting Long-Term Business, nor does it apply to captive insurance business.
- (c) It is the responsibility of the general representative to ensure the specific provisions of this Code are applied.
- (d) Compliance with this Code by insurers licensed to write domestic business from within the Bailiwick, will be routinely checked by the Commission when performing on-site visits.
- (e) Whilst the Code attempts to be as definitive as possible, it is not possible for it to be exhaustive. In areas where the Code is not specific, licensed insurers should be guided by the Code's underlying spirit. Lack of mention in the Code of a particular act or omission shall not be taken as an indication that such an act or omission constitutes acceptable professional conduct.
- (f) Acts of gross negligence or repeated acts of negligence may amount to unprofessional conduct and may be investigated by the Commission.

Nevertheless, claims against insurers or their employees for compensation arising from acts or omissions amounting to negligence are matters for determination by the Courts.

- (g) Where a licensed insurer is subject to this Code, but is unable to comply with all parts, that insurer must provide full details and reasons to the Commission for that non-compliance and must obtain a written exemption from the Commission.

2 General provisions

Licensed insurers subject to this Code shall:

- (a) conduct business with utmost good faith and high standards of integrity, exercising due skill, care and diligence in conducting their business activities;
- (b) establish and maintain adequate systems and controls to enable ongoing monitoring of compliance with this Code and ensure controls and procedures are adequately documented;

- (c) comply with all anti-money laundering/countering the financing of terrorism laws, regulations, instructions, guidance or rules issued from time to time by the Commission;
- (d) employ senior personnel who are, and remain, fit and proper for their roles and have the knowledge, qualifications, skills and integrity suitable for their positions;
- (e) at all times, have in place a fair dealing policy to avoid conflicts of interest;
- (f) deal with the Commission in an open and co-operative manner;
- (g) maintain client accounts, if handling clients' monies and ensure that any agents acting on behalf of the licensed insurer also maintain such accounts;
- (h) display its insurance licence at its principal place of business;
- (i) ensure that the regulatory status of the licensed insurer is included on all communications (e.g. advertisements / headed paper).

3 Complaints procedure

Insurers licensed under this Code must have procedures in place for dealing with customer complaints where issuing policies to the general public. In such circumstances the complaints procedure should as a minimum set out the following:

- (a) In the event of complaint this should be first reported to the compliance officer.
- (b) If a satisfactory response is not issued within 30 days of complaint the complaint should then be directed to a member of the Board.
- (c) If a satisfactory response is not issued within 30 days of complaint to the Board the company should inform the complainant of his/her rights and procedures to pursue the complaint further.
- (d) If a satisfactory response is not issued within 90 days of complaint the licensed insurer must notify the Commission of the complaint.
- (e) Appropriate information is to be provided to the customer to enable them to contact the parties detailed above.

NB when the position of Ombudsman is created the complaints procedures will be modified so as to direct the customer to the Ombudsman rather than the Commission.

4 Advertisements

Insurers licensed under this Code should ensure that advertisements:

- (a) are submitted to the Commission for approval, prior to publication;

- (b) do not contain any statement, promise or forecast which is untrue, misleading or extravagant;
- (c) are not designed in such a way as to distort or conceal any relevant subject material;
- (d) are clearly recognisable as advertisements;
- (e) are not likely to be misunderstood; and
- (f) where appropriate, state that the investment value is not guaranteed or that the value may fluctuate.
- (g) Each licensed insurer, in the case of long-term business, in its promotional material should:
 - (i) not employ such phrases as “tax free” or “tax paid” without making clear which taxes are being referred to;
 - (ii) not publish information about past performance unless it contains a warning that past performance is not necessarily a guide to future performance; and
 - (iii) endeavour to impress on clients that a whole of life or endowment policy is intended to be a long-term contract and that surrender values, especially in early years, are frequently less than the total amount of premiums paid.

5 Authorised Insurance Representatives

Licensed insurers are required to take responsibility for the appointment and activities of **authorised insurance representatives**. In this respect, licensed insurers shall:

- (a) where applicable, supply the Commission with details including date of birth, qualifications, previous employment of all its authorised insurance representatives and notify the Commission of any changes, including reasons, within 10 working days;
- (b) ensure all authorised insurance representatives are qualified, or obtain qualifications, to the minimum standard as determined by the Commission;
- (c) ensure all authorised insurance representatives advising on insurance products in or from within the Bailiwick of Guernsey, comply with the principles of the Code of Conduct for Authorised Insurance Representatives at all times;
- (d) ensure that all authorised insurance representatives provide prospective clients with the following information:
 - (i) the name of the authorised insurance representative;
 - (ii) who the authorised insurance representative represents; and

- (iii) what type of product(s) the authorised insurance representative is authorised to sell and/or advise on.
- (e) the authorised insurance representative is required to explain charges, in respect of long-term business, to clients (life cover charges, commissions, surrender penalties, etc) and provide the required information without delay.

6 Disclosure of information

The licensed insurer shall:

- (a) not use or disclose any information acquired from its clients except in the normal course of negotiating, maintaining or renewing a contract of insurance or in handling claims unless the written consent of the client has been obtained beforehand or disclosure of the information is required in the public interest or is compelled by law;
- (b) ensure that clients are informed that non-disclosure of material facts or the inclusion of incorrect information both before the insurance policy commences and during the period of the policy, may result, inter alia, in a claim being repudiated. On request, a client shall be supplied with a copy of the proposal form and other relevant documentation;
- (c) ensure that clients are informed that they are responsible for all answers or statements given on a proposal form, claim form or any other material document;
- (d) ensure that information is provided to a client in a comprehensive and timely manner in order for the client to make a balanced and informed decision;
- (e) ensure that adequate records of information received from and provided to a client are maintained. These records are to be maintained for the period within which claims under policies issued can be brought against the licensee in accordance with the prevailing prescription period;
- (f) ensure all relevant information is provided to the proposer in advance of any commitment to buy.

7 Granting terms of business to insurance intermediaries licensed in the Bailiwick

When a licensed insurer, subject to this Code, grants terms of business to insurance intermediaries in the Bailiwick, that insurer shall:

- (a) have in place a documented procedure for the appointment of new intermediaries;
- (b) have an application form completed and signed by the intermediary applying for introducer terms, including verification of identity, and suitable experience and qualifications;
- (c) have a terms of business agreement completed and signed by the intermediary, licensed in the Bailiwick, applying for introducer terms, to require the intermediary to warrant that the agreement does not breach any

other legal obligation or laws of the Bailiwick, that the intermediary will act only as agent of the client and not for or on behalf of the insurer, that the intermediary will observe the conditions of the agreement at all times and will clearly explain the risks inherent in the product to the client;

- (d) have in place suitable controls and procedures to ensure that where an intermediary undertakes the role of an introducer, they do not sell or advise on insurance matters;
- (e) take measures to monitor the performance of the intermediary, including the quality of the business, the persistency of the business and complaints made against the intermediary.

8 Proposal Forms

A licensed insurer shall ensure:

- (a) on proposal forms, the declaration at the foot of the proposal form shall be restricted to completion according to the client's knowledge and belief;
- (b) if not included in the declaration, that the following matters are prominently displayed on the proposal form:
 - (i) A statement drawing the attention of the client to the consequences of the failure to disclose all material facts explained as those facts an insurer would regard as likely to influence the acceptance and assessment of the proposal; and
 - (ii) A warning that, if the client is in any doubt about facts considered material, he should disclose them.
- (c) that those matters which insurers have found generally to be material should be the subject of clear questions in proposal forms;
- (d) so far as is practicable, they avoid asking questions which would require expert knowledge beyond that which the client could reasonably be expected to possess or obtain or which would require a valued judgment on the part of the client;
- (e) unless the prospectus or the proposal form contains full details of the standard cover offered and whether or not it contains an outline of that cover, that the proposal form includes a prominent statement that a specimen copy of the policy document is available on request;
- (f) the proposal form contains a prominent statement that a copy of the completed form:
 - (i) is automatically provided for retention at the time of completion; or

- (ii) will be supplied as part of the insurer's normal practice; or
 - (iii) will be supplied on request within a period of three months after its completion;
- (g) neither the proposal form nor the policy shall contain any provision converting statements as to past or present fact in the proposal form into warranties. Licensed insurers may, however, require specific warranties about matters that are material to the risk.
 - (h) A licensed insurer shall not raise an issue under the proposal form unless the policyholder is provided with a copy of the completed form.
 - (i) Under the conditions regarding notification of a claim, the policyholder shall not be asked to do more than report a claim and subsequent developments as soon as reasonably possible except in the case of legal processes and claims which a third party requires the policyholder to notify within a fixed time where immediate advice may be required.
 - (j) Once liability has been established under the policy and the amount payable by the licensed insurer agreed, the licensed insurer shall ensure that payment is made without delay.

9 Renewal Notices (General Insurance Business Only)

The licensed insurer shall:

- (a) not unduly withhold renewal notices if renewal notices are ordinarily issued;
- (b) ensure that renewal notices contain a warning about the duty of disclosure, including the necessity to advise changes affecting the policy which have occurred since the policy inception or last renewal date, whichever was the later.

10 Long-term insurance business only

- (a) Long-term assurance policies or accompanying documents should indicate:
 - (i) the circumstances in which interest would accrue after the assurance has matured; and
 - (ii) whether or not there are rights to surrender values in the contract and, if so, what those rights are.
- (b) When the payment of a claim is delayed by more than two (2) months, the licensed insurer will pay interest on the cash sum due or make an equivalent adjustment to the sum due unless the amount of such interest would be immaterial. The two (2) month period will run from the date the insurer is notified of the insured event or, in the case of a unit-linked policy, from the date on which the unit-linking ceased, if later. Interest will be calculated at the relevant market rate from the end of the two (2) month period until the actual date of payment of the claim.

- (c) Each licensed insurer issuing long-term policies to the general public must:
 - (i) provide a cancellation notice offering the policyholder a fourteen (14) day cooling off period; and
 - (ii) annually contact the policyholder to keep him informed how their policy is progressing, if the policy has a variable investment element.

11 Definitions

- (a) An agent is either a person or entity to whom terms of business have been granted by the licensed insurer to act and advise on its behalf.
- (b) For the purposes of this Code, Domestic business means risks arising in or from within the Bailiwick.