

FINANCIAL SERVICES COMMISSION OF BARBADOS

GUIDELINE NO. 8

GUIDELINE ON INSURANCE BROKER AGREEMENTS

(This guideline is issued pursuant to Section 53 of the Financial Services Commission Act, 2010-21 and comes into effect on March 1, 2015)

1.0 INTRODUCTION

- 1.1 The Financial Services Commission (the Commission), in the performance of its duties and obligations under *the Insurance Act Cap 310* establishes requirements for the conduct of insurance business which are designed to strengthen consumer confidence in the insurance market and enhance the operational efficiency of market participants. The Commission expects insurers and brokers, who write, advise or are otherwise involved in the placement of insurance business in Barbados, to maintain a high level of conduct with respect to the conduct of business transactions.

This guideline seeks to ensure that best practices with respect to the establishment of written agreements between Insurers and brokers registered under the *Insurance Act Cap. 310* are adopted.

- 1.2 The guideline is of general application and insurers and brokers must be aware that as time progresses, there is the likelihood that the guideline will be revised. Revision of the guideline will be published, following appropriate industry consultation. Guidelines are not intended to be exhaustive. Guidelines are intended to highlight minimum standards that should be observed. In areas where this guideline is not specific, insurers and brokers should be guided by the guideline's underlying spirit. All persons must take the appropriate steps to become compliant with the guideline.
- 1.3 This guideline is not intended to be a substitute for or replace any additional obligations under the *Insurance Act, Cap.310*, regulations or specified enactments. Due to the dynamic nature of the various financial institutions that the Commission regulates, there may be the need for revision of this guideline from time to time.

2.0 DEFINITIONS

- 2.1 **Local insurance policy** under the *Insurance Act Cap. 310 (the Act)* means a policy issued in Barbados and includes an ordinary life insurance policy issued outside Barbados and subsequently made payable in Barbados at the request of the policy-holder which the

policy-holder has agreed in writing shall be treated as a local policy for the purposes of this Act; but does not include an ordinary life insurance policy made payable outside Barbados at the request of the policy-holder which the policy-holder has agreed in writing shall not be treated as a local policy for the purposes of the Act.

2.1.1 **Customer** - is a person to whom a good or service is provided by an insurer or intermediary, and includes policyholders.

2.1.2 **Insurer** - under the *Insurance Act Cap. 310* means “a company carrying on insurance business and, except where otherwise stated, includes all the members of an association of underwriters that is registered as an insurer.”

2.1.3 **Broker** - means any individual, firm or body corporate who in any manner solicits, negotiates or procures insurance or the renewal or continuance thereof on behalf of insurers other than himself or on behalf of agents, or who arranges insurance business with the insurers or agents on behalf of prospective policy-holders.

3.0 TO WHOM DOES THIS GUIDELINE APPLY

3.1 This guideline applies to all insurers licensed to write domestic insurance policies in Barbados and to all brokers who advise or place domestic insurance business. For clarification, this guideline does not apply to the insurance business written by those insurers who are classified as Exempt Insurance Companies. The policies only apply to Qualifying Insurance Companies for those policies sold in Barbados through the use of a broker.

3.3 Insurers and brokers should seek to enter into written agreements, which at a minimum set out the operational procedures governing the transactions between them as set out in sections 4 and 5 of this guideline. Insurers and brokers are encouraged to expand the agreement to cover operational areas over and above the requirements stated in this guideline.

4.0 GENERAL PROVISIONS TO BE COVERED IN THE AGREEMENT

4.1 The agreements between insurers and brokers, should at a minimum cover the general responsibility of the parties to the contract. The agreement should ensure that, an insurer or where applicable, a broker is specifically required to:

4.1.1 Share all related information required to properly execute an insurance policy for a customer.

- 4.1.2 Settle all claims in a timely manner in accordance with the policy documents and agreements issued.
- 4.1.3 Avoid misleading and deceptive acts or representations made to customers in the course of transacting insurance business. Specific reference is drawn to the requirements of section 91(1) of the Act.

5.0 SPECIFIC PROVISIONS TO BE COVERED IN THE AGREEMENT

- 5.1 In accordance with section 90 of the *Insurance Act Cap. 310*, an intermediary is deemed to be the agent for the insurer with respect to the collection of premiums from customers. The receipts issued to customers should therefore clearly indicate, at a minimum, the following items:
 - (a) The name of the customer;
 - (b) The amount paid on the date of the transaction;
 - (c) The date of the transaction;
 - (d) The name of the insurer; and
 - (e) The insurer's reference number of the policy with respect to the premium collected.
- 5.2 Premiums collected by an intermediary should be remitted within fifteen (15) days of receipt. Where an alternate time period is agreed by the insurer and broker this should be set out in the written agreement.
- 5.3 Where premiums are paid directly to insurers by customers of insurance brokers and commissions are due to brokers, the time period for payment of the commissions should be included in the written agreement. Agreed commission rates for each class of policy should also be set out in the agreement.
- 5.4 The written agreement between the insurers and brokers should also cover the following:
 - i. the type of policies that the broker is permitted to represent.;
 - ii. the responsibility of each party for the collection and sharing of information pursuant to the *Anti-Money Laundering Guidelines and Money Laundering and Financing of Terrorism (Prevention and Control) Act 2011-23* and related guidelines

6.0 COMPLIANCE

- 6.1 Good market conduct is essential to mitigating reputational risk in the industry and improving operational effectiveness, and as such, the Commission expects that insurers and brokers will comply fully with this guideline.
- 6.2 Insurers and brokers will be granted six months from the date of the guideline to become compliant.
- 6.3 Insurers and brokers are encouraged to seek independent legal advice prior to entering into agreements.