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TO: All Insurers (Insurance Companies, Funeral Assurers, and Reinsurers)

All Insurance Brokers

All Insurance Agents (General and Life), Corporate agents and Multiple Agents.

CC: Insurance Council of Zimbabwe

Life Offices Association

Zimbabwe Association of Reinsurance Organisations

Zimbabwe Association of Funeral Assurers

Insurance Brokers Association of Zimbabwe

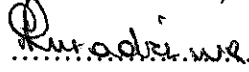
OPERATIONALISATION OF THE GUIDELINES FOR INSURANCE BROKERS AND AGENTS

The insurance and Pensions Commission hereby issues, in terms of section 6 of the Insurance Act [Chapter 24:07], the enclosed Guidelines for Insurance Brokers and Agents.

The Commission consulted all the relevant stakeholders whose input was considered in drawing up these guidelines. These guidelines are binding on all agents and insurance brokers as well as insures in their capacity as principals of agents. As such all agents, brokers and registered insurers must familiarise themselves with these guidelines and implement the provisions thereof fully.

It is expected that the guidelines will enhance the supervision of the activities of insurance brokers and agents to ensure the protection of the rights, benefits and other interests of policyholders and of any beneficiaries of policies.

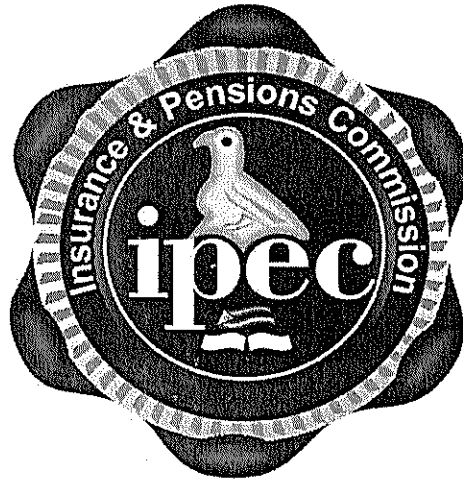
Yours Faithfully


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G.Muradzikwa

COMMISSIONER OF INSURANCE, PENSION AND PROVIDENT FUNDS

INSURANCE AND PENSIONS COMMISSION



**GUIDELINES FOR INSURANCE BROKERS AND AGENTS
(INDIVIDUAL AGENTS, CORPORATE AGENTS AND
MULTIPLE AGENTS)**

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1. INTRODUCTION

- 1.1. These Guidelines are issued in terms of section 6b of the Insurance Act [Chapter 24:07] in terms of which the Commission is enjoined to supervise the activities of registered insurers, insurance agents and insurance brokers.

2. INTERPRETATION

- 2.1. In these Guidelines, unless the context indicates otherwise, the following terms have the following specific meanings assigned to them
 - i. *Consumer* – means a potential or existing policyholder;
 - ii. *Insurer* – means an insurer as defined in the Insurance Act and includes a reinsurer and a mutual society;
 - iii. *Intermediary* – refers to agents and brokers in their particular role of linking insurers and consumers; and
 - iv. *Tied agent* – means an individual agent or corporate agent who represents a single insurer.

3. SCOPE OF APPLICATION OF THE GUIDELINES

- 3.1. These Guidelines seek to outline the market conduct and standards expected of insurance intermediaries. The guidelines provide general guidance in the conduct of business by intermediaries and should not be misconstrued as replacing or overriding any legislative provisions or Directives issued under the Insurance Act [Chapter 24:07].
- 3.2. These Guidelines should be read in conjunction with the provisions of the Insurance Act which include Statutory Instruments, Directives, Circulars, notices and other Guidelines that the Commission may issue from time to time.
- 3.3. These Guidelines, though not directly meant for insurers, bind insurers in their capacity as principals of insurance intermediaries.

4. BACKGROUND

- 4.1. Brokers and agents are an important delivery mechanism of the insurance value chain and play a critical role in improving the consumer's access to insurance products.
- 4.2. When functioning optimally, brokers and agents are important as intermediaries between insurers and consumers and help in simplifying often complex insurance matters to the transacting public.
- 4.3. Insurance intermediaries play a critical role in the efficient functioning of insurance markets by matching insurance products and services with consumer needs and reducing information asymmetries potentially present in an increasingly complex market¹.
- 4.4. On the other hand if brokers and agents do not properly carry out their functions, policyholder confidence in the insurance sector is severely compromised.
- 4.5. It is from this background that these Guidelines have been developed. The purpose of these Guidelines is to enhance the supervision of the activities of insurance brokers and agents to ensure the protection of the rights, benefits and other interests of policyholders and of any beneficiaries of policies.

5. DEFINITIONS AND FUNCTIONS

- 5.1. According to the Insurance Act [Chapter 24:07], an insurance agent is:
"a person who, on behalf of a registered insurer or registered insurers—
(a) initiates insurance business; or
(b) does any act in relation to the receiving of proposals for insurance, the issue of policies or the collection of premiums;
but does not include an employee of a registered insurer who receives a salary"
- 5.2. An insurance broker is defined in the Insurance Act as:

¹ OECD (2020) Regulatory and Supervisory Framework for Insurance Intermediation

"a person who, on behalf of any other person negotiates insurance business with insurers, and includes a person who negotiates reinsurance business on behalf of any other person, but does not include an employee of a registered insurer who receives a salary;"

- 5.3. From the definitions above it is clear that the key difference between insurance agents and insurance brokers lies in their agency i.e. the person on whose behalf they act.
- 5.4. Insurance agents act on behalf of the insurer to initiate insurance business whereas brokers negotiate insurance business on behalf of any other person. In both instances, an employee of an insurer cannot act as a broker or an agent. This position is buttressed by Circular 6 of 2017.
- 5.5. Agents may act on behalf of a single insurer (tied agents) or on behalf of multiple insurers (multiple agents).
- 5.6. A multiple agent is defined in the Insurance Regulations, Statutory Instrument 49 of 1989 as "an agent representing more than one registered insurer in any of the three: life insurance business; non-life insurance business and both life and non-life insurance business"
- 5.7. The distinction between brokers and tied agents is simple enough, the broker represents the policyholder and may negotiate with insurers to obtain the most suitable product(s) for the policyholder. The agent is tied to the insurer and acts on behalf of that insurer only.
- 5.8. The distinction between a broker and a multiple agent on the other hand is not as clear cut in practice. A multiple agent by definition may represent more than one insurer, meaning that in the conduct of business the multiple agent may offer to the policyholder, products from different insurers.
- 5.9. In this way the multiple agent performs a similar function to the function of an insurance broker. To compound the problem brokers and agents in practice do not always solely act for either the insurer or the consumer.
- 5.10. A broker collects premiums and remits them to the insurer, in this way the broker can be said to be performing functions on behalf of the insurer.

- 5.11. A multiple agent may explain to a policyholder the features of the different products of the numerous insurers which it represents and in this way may be viewed as advising policyholders and not necessarily acting on behalf of the insurer.
- 5.12. In terms of the Insurance Act and regulations, brokers, being independent from the control of insurers, are subject to more onerous requirements than multiple agents in terms of capital, requirement for professional indemnity insurance, shareholding and corporate governance.
- 5.13. The rationale is that agents are under the control of insurers on whose behalf they act and the insurers thus act as a safeguard that the agents adhere to the appropriate standards.

6. GUIDELINES FOR THE CONDUCT OF BUSINESS

- 6.1. In addition to the regulations in terms of the Insurance Act, legal instruments and other guidelines issued by the Commission in respect to the conduct of business by insurance brokers and insurance agents, the following guidelines shall be observed by insurers, insurance brokers and insurance agents.

Principles to be observed in the conduct of business

- 6.2. *In line with the agent – principle relationship insurers are liable for the actions of agents acting on their behalf. Insurers must ensure that their agents comply with all applicable laws and guidelines.*
- 6.3. *Insurance Brokers and Insurance Agents must conduct business in the respective class of insurance business they are authorised*
- 6.3.1. Insurance Agents and Insurance Brokers must possess valid and appropriate certificates of registration or licences as the case maybe;
- 6.3.2. Where a licence has expired, an insurance agent may not carry on business unless such licence has been renewed; and

- 6.3.3. Insurance Brokers and Insurance Agents must display their certificates of registration / licences prominently at the reception of each of their office / place of business or produce such certificate / licence before initiating or negotiating insurance business.
- 6.4. *Insurance Brokers and Insurance Agents must always act in the best interests of the consumer and disclose all necessary information*
- 6.4.1. Insurance Brokers and Insurance Agents must act honestly at all times;
- 6.4.2. Insurance Brokers and Insurance Agents must treat consumers fairly and act in the best interests of the consumer;
- 6.4.3. Insurance Brokers and Agents must not give misleading or false information to consumers, only marketing materials approved by the insurer may be used;
- 6.4.4. Insurance Brokers and Insurance Agents must avoid conflict of interests in the conduct of business and must disclose any such conflict to the consumer;
- 6.4.5. Insurance Agents and Brokers must disclose the scope of their registration/ licence to consumers and must only act within the limits of the scope of their registration / licence;
- 6.4.6. Insurance Brokers and Insurance Agents must disclose their interests i.e. the insurer whom they represent (where applicable) commission, fees or other interests pecuniary or otherwise. Tied agents do not have to disclose their commission.
- 6.4.7. Insurance Brokers and Insurance Agents must inform consumers of their contact details and address as well as the contact details and address of the insurer they represent / whose products they recommend;
- 6.4.8. Insurance Brokers and Insurance Agents must advise consumers of all the features and benefits of any insurance product(s) they recommend and ensure that the consumer has fully understood the features thereof;

- 6.4.9. Insurance Brokers and Agents must advise consumers of their right to cancel a product and the period within which such cancellation may be done (cooling off period), implications of cancellation, exclusions and other essential provisions of the respective contract of insurance;
- 6.4.10. Insurance Brokers and Agents must give impartial advice;
- 6.4.11. Insurance Brokers and Agents must give consumers sufficient information to enable consumers to make informed decisions;
- 6.4.12. Insurance Brokers and Agents must use simple and comprehensible language to explain the features and provisions of the insurance contracts to consumers;
- 6.4.13. Insurance Brokers and Agents must recommend products that are suitable for the particular needs of the consumer taking into account the consumer's circumstances;
- 6.4.14. Thus before recommending a particular insurance product to a consumer an insurance broker or agent must enquire into the consumer's needs and obtain as much relevant information as is reasonably possible;
- 6.4.15. All information received from a consumer must be treated with the strictest confidence;
- 6.4.16. An insurance agent must refer a consumer to a registered insurance broker where the products offered by the insurer represented by the agent are not suitable for the consumer;
- 6.4.17. Insurance Brokers and Agents must not advise consumers on products unless they have sufficient knowledge and necessary expertise;
- 6.4.18. Insurance Agents and Insurance Brokers must advise the consumer of the duty of the consumer to disclose all material facts as required by section 83A of the Insurance Act and ensure that the consumer has understood this duty and implications of not doing so; and

- 6.4.19. Insurance Agents and Brokers must advise consumers of the procedure for lodging claims as prescribed by the insurer including the required information/ documents and timeframes.
- 6.5. *Insurance brokers and Insurance agents must be suitably qualified and be fit and proper*
- 6.5.1. Insurance Brokers and Insurance Agents must be fit and proper on an ongoing basis; and
- 6.5.2. Must at all times possess the prescribed qualifications, in terms of Circular 9 of 2006, agents must possess a minimum of 5 O-levels, five years experience and a Certificate of Proficiency in the relevant class of insurance business
- 6.6. *Insurance Brokers and Agents must exhibit a reasonable standard of care and exercise due diligence*
- 6.6.1. Insurance Brokers and Agents must at all times carry out their functions to a reasonable standard of care and skill and with due diligence;
- 6.6.2. The reasonable standard of care, in this respect, is the standard expected of a reasonable professional insurance broker or agent in carrying out the functions of an insurance broker or agent;
- 6.6.3. Where a licensed insurance broker or agent employs or engages another person in its carrying out its functions, the insurance broker or agent should ensure the person has the integrity and competence to discharge the duties for which the person is employed or engaged and supervise that person diligently in performing such duties;
- 6.6.4. The Insurance Broker or Agent remains responsible and liable for the actions of its employees or representatives while carrying out the functions of the Insurance Broker or Agent.
- 6.7. *Insurance brokers and Insurance Agents must have in place the adequate systems to manage risks and ensure that the best interests of consumers are protected*

- 6.7.1. Appropriate and adequate governance structures to safeguard consumer interests and assets must be put in place;
- 6.7.2. Policies and Procedures encompassing all aspects of Insurance Agents (Multiple Agents & Corporate Agents) or Insurance Brokers encapsulating the principles outlined herein must be put in place;
- 6.7.3. The Policies and Procedures of the Insurance Agents or Insurance Brokers must be documented and all of the employees / representatives of the corporate insurance agent or insurance broker must adhere to them;
- 6.7.4. Premiums must be remitted to the insurer within seven working days and all necessary steps to protect consumer interests and assets must be implemented.
- 6.7.5. Minimum Capital Requirements and / or other forms of security prescribed must be maintained at all times; and
- 6.7.6. Adequate professional indemnity insurance must be maintained at all times.
- 6.8. *Insurance Brokers and Agents must act honestly and ethically at all times and comply with the law*
 - 6.8.1. The Broker or Agent must comply with all relevant provisions of the Insurance Act, the Insurance and Pensions Commission Act and the Regulations made thereunder and any other relevant law.
- 6.9. *Employees of insurers may not act as insurance brokers or insurance agents*
 - 6.9.1. Employees of an insurer and other persons with access to an insurer's information on past or present policyholders may neither act as agents of an insurer nor as brokers.
- 6.10. *Complaints Handling and Record Keeping*
 - 6.10.1. Insurance Brokers and Agents must have documented complaints handling procedures;
 - 6.10.2. Insurance Brokers and Agents must have a complaints register to record consumer complaints;

- 6.10.3. Insurance Brokers and Agents must inform consumers of their complaints handling process and the complaints register;
- 6.10.4. Insurance Brokers and Agents are required to advise consumers of their right to approach the Insurance and Pensions Commission or the insurer if they are not satisfied with the service rendered by the Insurance Broker or Agent;
- 6.10.5. Insurance Brokers and Agents must maintain necessary records of their business and activities and maintain their records for a minimum period of 10 years.

6.11. Tied Agents

- 6.11.1. A tied agent must disclose to consumers the specific insurer that they represent, the commission and any other fees that they earn for initiating the insurance business.
- 6.11.2. A tied agent must advise consumers to approach registered brokers for specialised advice on insurance products.
- 6.11.3. An insurer is required to inform the Commission when any of its tied agents sells an aggregate of at least 250 policies within a single quarter.
- 6.11.4. The Commission may from time to time set a limit of the monetary value or the number of policies that a tied agent may sell in a specified period
- 6.11.5. Except for the commission or any other fee which the tied agent is entitled to receive from the insurer, a tied agent may not charge any fees of any kind to consumers.

6.12. Multiple Agents

- 6.12.1. A multiple agent must disclose to a consumer the insurers who he/she represents;

- 6.12.2. A multiple agent must also disclose the commission that he/she will earn in respect of the different products the policyholder proposes;
- 6.12.3. A multiple agent is required to advise consumers to approach registered insurance brokers for specialised advice appropriate insurance products;
- 6.12.4. A multiple agent must be a person who has at least 3 years' experience as an agent in the class of insurance business in which the multiple agent intends to represent registered insurers;
- 6.12.5. A multiple agent may not represent more than 3 registered insurers in any one class of insurance business.
- 6.12.6. The Commission will, from time to time, set monetary limits of the amount of business which a multiple agent may conclude within one year
- 6.12.7. A multiple agent that exceeds the set limit will be required to apply for deregistration as a multiple agent and apply for registration as an insurance broker.
- 6.12.8. Except for the commission or any other fee which the multiple agent is entitled to receive from the insurer, a multiple agent may not charge any fees of any kind to consumers.

6.13. Brokers

- 6.13.1. Insurance brokers must disclose to the consumer, the brokerage commission or fee which they will earn.
- 6.13.2. A broker is required to hold premiums received from policyholders for onward transmission to the respective insurer(s) in trust for a maximum of seven working days.

7. PENALTIES FOR NON-COMPLIANCE

7.1. The Commission shall invoke any of the following sanctions to any intermediary who contravenes the provisions of these guidelines:

- (a) Direct the intermediary to meet the loss occasioned by such contravention;
- (b) Suspend the intermediary's licence for a specified period;
- (c) Decline to renew the intermediary's licence;
- (d) Cancel the intermediary's licence;
- (e) S-rate the intermediary or its senior executives for a period of three to five years depending on the severity of the matter;
- (f) Issue a public statement warning members of the public against transacting business with the respective intermediary; and
- (g) Any other measures as prescribed in the Insurance Act.

8. REVIEW OF THE GUIDELINES

8.1. The Commission may review, amend or revoke these Guidelines if it is in its opinion necessary to do so.

9. EFFECTIVE DATE OF THE GUIDELINES

9.1. These guidelines shall become effective on the 6th of October 2020



G. Muradzikwa

COMMISSIONER OF INSURANCE, PENSION AND PROVIDENT FUNDS