

OFFICE OF THE CONTROLLER OF INSURANCE
COI Directive No. 2
On Market Conduct of Insurance Brokers

Applicability

1. This Directive is issued under section 4(b)(f) and section 6 of the Insurance Act 1986 and is applicable to all insurance brokers registered to conduct insurance business in Solomon Islands.

Background

2. The Controller of Insurance under the Insurance Act 1986 is mandated by section 4(b)(f) and section 6 of the Act to regulate the affairs of the insurance industry and issue directions to insurers, brokers, agents and policyholders.
3. The Insurance Act 1986 seeks to promote stability within the insurance industry, thereby, maintaining confidence in the relationship between policyholders, insurance companies, and insurance brokers. Confidence in the insurance industry can be eroded if insurance companies and brokers engage in unethical behaviour. By law, insurers have a duty of care to policyholders. Consequently, brokers must be held to the same standard as licensed insurers.
4. The Controller's Office is mandated to ensure that the principles and practices of sound market conduct are observed by all registered brokers to protect the interest of policyholders.
5. The Controller recognizes the need for market conduct guidance to reinforce legislation and provide directions for acceptable business practices and the protection of policyholders. From the guidance provided, brokers must implement internal policies and procedures and ensure the adherence to sound market conduct practices.
6. These Directives are not intended to be exhaustive, but represent the minimum standards that must be observed. The Controller expects brokers to take appropriate steps to become compliant with these Directives.

Purpose

7. The purpose of this Directive is to:
 - a. establish and apply specific Directives for insurance brokers registered in Solomon Islands, in conducting insurance business with their customers and policyholders, to maintain or enhance public confidence in the relationship between the insurance services providers and the insurance policyholders to maintain stability;

- b. strengthen the duty of care obligation that insurance service providers have towards policyholders and in so doing promote stability within the insurance industry;
- c. ensure a broker acts with high standards of integrity and fair dealing in the conduct of their business;
- d. ensure a broker acts with due care, skill and diligence when dealing with customers;
- e. ensure a broker promotes products and services in a manner that is clear, fair and not misleading;
- f. ensure a broker has policies and processes in place to handle complaints in a timely and fair manner;
- g. ensure a broker has policies and processes in place to handle claims in a timely and fair manner;
- h. ensure insurance brokering firm employees have the right or appropriate level of training and that a broker has a training policy and procedures;
- i. ensure a broker obtain sufficient information about the customer to assess their insurance needs and treat confidential information as such;
- j. ensure a broker acts on behalf of his client at all times and to provide advice in the best interest of his client;
- k. ensure a broker communicate relevant and meaningful information in a timely and comprehensive manner to policyholders; and
- l. ensure a broker promotes appropriate Money Laundering (ML) and Financing of Terrorism (FT), and Proliferation Financing(PF) measures to ensure proper safeguards exist and a broker should implement appropriate internal money laundering and financing of terrorism, and proliferation financing procedures and controls.

Definitions

- 8. For the purpose of this Directive, the following definitions, as provided in the Insurance Act, will apply:
- 9. **“Insurer”** means any person who commences transactions or carries on insurance business.
- 10. **“Broker”** means a person who exercises professional skill and is concerned with the placing of insurance business for or in expectation of payment by way of commission, fee, allowance, or return.
- 11. **“Controller”** means the controller of Insurance appointed under section 3 of the Insurance Act 1998.
- 12. **“Policyholder”** means the person who for the time being has legal title to a policy and includes any person to whom a policy is for the time being assigned.

13. **“Market Conduct”** means all activities, systems and measures put in place by insurance companies and insurance brokers to ensure that policyholders’ interests are assigned paramount importance.
14. **“Professional Indemnity Cover”** means insurance cover against claims for financial losses, injury, or damage arising from an act, error or omission in the performance of brokers professional advice and service to its customers.

Integrity and Fair Dealing

14. Insurance brokers must establish recruitment policies that ensure the employment of persons of highest calibre who would have no difficulty meeting the fit and proper requirements as stipulated by Insurance Act (Cap 82) 1986 Section 14(c) & (d) and Section 56 (a, b, & c).
15. Brokers must develop charters, setting out standards of service to their policyholders. A system must be established and implemented to monitor the quality of service being delivered by their staff members.
16. Brokers must give fair and equal treatment to all policyholders and must not make or permit any unfair discrimination against any person or persons, in respect of conducting their business activities. Brokers must not engage in unfair trade practice.
17. Brokers acting on insurers behalf must comply with the insurer’s policies and procedures and the provisions of the Insurance Act and Regulations.
18. Brokers must give fair and equal treatment to all policyholders and ensure that information is passed to them in a timely and efficient manner.
19. Brokers must ensure that all premiums are paid to the insurer within 60 business days of inception date of such premiums and monitor the progress of all claims while giving professional assistance to the policyholder, adjuster and insurer, to facilitate efficient and just settlement.

Care, Skills and Diligence

20. Brokers must conduct their business activities with due care, skill and diligence ensuring that their clients are adequately informed and given full explanations of the nature and effect of all provisions in insurance policies issued and distributed by them.
21. Insurance Act (Cap 82) 1986 Section 56 (a), (b), and (c), requires that directors and senior officers of brokers take into account the interests of policyholders while discharging their duties to act honestly and in good faith in the best interest of the insurance company.
22. Brokers must develop and maintain appropriate and up-to-date training policies and procedures, approved by the Board of Directors as well as, training manuals for the training of employees.

23. Brokers must have their employee training plan, and execute appropriate trainings from recognized institution within the period of 18 – 24 months of issuance of license by the Controller.
24. Brokers must conduct training sessions at appropriate intervals to educate their sales representatives about the nature and characteristics of all their insurance products.
25. Brokers must ensure that their sales representatives are trained and equipped to adequately advise clients on the features and characteristics of all insurance policies that they sell.
26. Brokers must ensure that any insurance policy issue on behalf of insurers must be approved by the Controller's office, in accordance with section 56 of the Insurance Act. The broker must comply with the Directives established by the Controller's office for the approval of policies.
27. Brokers have a duty of care to ensure that persons employed to sell, solicits, or negotiates insurance contracts are fit and proper persons and are registered by the Controller's Office.
28. Brokers must ensure that it is registered with the Controller's Office prior to engage in placing or negotiating insurance business with Insurance Companies. Payment of compensation to an unregistered person for placing or negotiating insurance is prohibited under section 56 of the Insurance Act.
29. Brokers must maintain appropriate and up-to-date money laundering and financing of terrorism, and proliferation financing procedures and control measures when dealing with policyholders. Brokers must perform adequate level of "Know Your Customer (KYC)" and appropriate measures of customer due diligence (CDD), the process of verifying the identity and ensuring the suitability of a prospective or existing policyholder.

Disclosure of Information

30. Brokers must give full and clear explanations in clear language that is easily understood to all queries from clients or policyholders.
31. Brokers should take reasonable care to ensure that information disclosed to customers is accurate, relevant and meaningful and not deceptive.
32. Brokers should provide adequate information about benefits, risks and obligations associated with the insurance product, as well as, information about the procedures for filing complaints and making claims. The information must be accessible in writing or other appropriate electronic means to the policyholders.

33. Brokers are required to make their latest financial statements available in a convenient location within their head office and branches, in order to assist customers in assessing the financial position of the company.
34. Brokers must give written statements to policyholders with investment linked policies, on the performance of their investments, at least annually, if applicable.

Information on Customers

35. Brokers must obtain relevant information on their customers in order to offer appropriate advice concerning products and services and to guard against money laundering, terrorism financing and proliferation financing, and tax evasion activities.
36. Customers must be informed of their duty to make true, fair and complete disclosure and to furnish all relevant information which may be considered as having a bearing on the risk to enable the broker to properly assess the risk to be covered by a policy.
37. Information that a customer might reasonably expect to be confidential should be treated as such, however, the customer must be informed of the broker's obligation to disclose information when properly required to do so by the Controller, or if ordered to do so by a court of competent jurisdiction, or other due process of law.

Conflicts of Interest

38. Brokers must endeavour to avoid any conflict of interest that may arise in their dealings. Where a conflict of interest arises, a broker must ensure fair treatment of all its customers by putting in place a formal policy that requires disclosure of conflicts of interest when they arise. In these situations, managers and staff of the insurance brokering firm should recuse themselves, decline to act, or otherwise as appropriate.

Advertisements

39. Advertisements in all media or printed materials issued by brokers for promotion or information must be prepared in a manner that is not misleading to the customer or policyholder.
40. Brokers must ensure that their advertisements:
 - a. Disclose the full name of the broker and are not designed in such a way as to give the impression that the broker is an "*insurance company*". Failure to use the word "*broker*" in the name may mislead the public into thinking that the brokerage is an insurance company.
 - b. Clearly identify the insurance company underwriting the product being advertised. Failure to clearly identify the underwriter of the product may mislead the public into thinking that the insurance product was underwritten by the broker. Only

registered insurance companies are permitted to develop, underwrite, and issue policies in Solomon Islands.

- c. Do not contain a statement offering “*discounts*” or the provision of “*premium financing*”. Reference to discounts erroneously suggests that the broker can alter the terms and conditions of a policy. Brokers are not allowed to provide premium financing.
- d. Do not contain any reference to products which can only be obtained on a facultative placement basis from an unregistered broker, with prior approval from the Controller. Reference should not be made to products underwritten by an unregistered insurance company, and the name of an unregistered insurance company should not be used in any advertisement.

Complaints Handling

41. The complaints of customers must be settled in a timely, effective, and fair manner. Brokers must have written procedures in place for the proper handling of complaints from customers. At a minimum, the Controller recommends that the complaints procedures must provide that:

- a. The broker will acknowledge each complaint in writing within five business days of the complaint being received;
- b. The broker will provide the complainant with the name of one or more individuals appointed by the broker to be the complainant’s point of contact in relation to the complaint until the complaint is resolved;
- c. The broker will provide the complainant with regular written updates on the progress of the investigation of the complaint at intervals of not greater than twenty business days;
- d. The broker will attempt to investigate and resolve a complaint within forty business days of having received the complaint. Where the forty business days have elapsed and the complaint is not resolved, the broker will inform the complainant of the anticipated timeframe within which the broker expects to resolve the complaint;
- e. The brokers will advise the complainant in writing of the outcome of the investigation, within five business days of the completion of the investigation of a complaint, and where applicable, explain the terms of any offer or settlement being made;
- f. The procedures for dealing with complaints should be well disclosed to the policyholder and should be easily accessible; and

- g. Insurance brokers should log and keep a record of all complaints and the actions that were taken to resolve them. The log and record must be available for examination by the Controller's Office.

Claims Handling

- 42. Claim settlement procedures must be clearly identified and outlined in the policy and this procedure must be appropriately communicated to the policyholder. Insurance brokers must honour the terms and conditions of claims settlement contained in the policy document.

Compliance

- 43. Insurance brokers must establish and maintain systems and controls to enable on-going monitoring of compliance with these Directives and ensure that controls and procedures are properly documented.
- 44. Insurance brokers must ensure that systems and procedures are developed and implemented in order to comply with the Insurance Act, and all Directives for insurance service providers issued by the Controller.
- 45. Compliance with Directives will be checked by the Controller's Office when it performs on-site examinations of brokers and also when it investigates policyholders' complaints lodged with the Controller. During the on-site examination, the Controller's Office may include in its review, among other matters, the following:
 - a. the brokers' policies and procedures for compliance with the Directives;
 - b. the sufficiency and adequacy of the information given to consumers;
 - c. the record of complaints, including the frequency and nature, and the timing and resolution of the matters raised in the complaints;
 - d. the policies and procedures on claims' handling and settlement as well as the actual experience in implementation; and
 - e. the marketing and advertising materials for compliance with the insurance legislation and the Directives.
- 46. The Controller's office will assess the market conduct provisions of insurance brokers through on-site examinations to determine their compliance with the Insurance Act and the Directives. Complaints received by the Controller's Office and other areas of concern identified by the Controller's Office are significant factors in determining which insurance entities will be examined. This will help to promote a climate of fair

competition in the marketplace and protect consumers from practices that are contrary to the insurance legislation.

47. Brokers must have Professional Indemnity Insurance Cover to protect their business from professional liability.

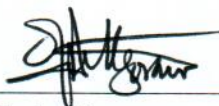
Enforcement and Corrective Measures

48. A Broker, which fails to comply with the requirements contained in this Directives or to submit certain reports to the Controller's Office, which are materially inaccurate, will be considered in breach of this directive and therefore, may be subject to a monetary penalty.
49. The Controller's Office may pursue any or all corrective measures as provided in section 9 of the Insurance Act 1986 to enforce the provisions of this Directive.

Effective Date

50. The effective date of this Directive is December 1, 2019

Issued this 25th day of November 2019.



Dr Luke Forau
Controller of Insurance