



# **Code of Market Conduct For Insurance Brokers**

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## **1. INTRODUCTION**

The Financial Services Authority (herein after referred to as “the Authority”) has a mandate to develop, and enforce supervisory standards for the conduct of insurance business in St. Vincent and the Grenadines in accordance with international standards and best practices.

The Authority endeavors to institute a mechanism for potential policyholders to:

- have access to all material information before the conclusion of an insurance contract;
- receive advice in a correct and meaningful manner in assessing their insurance requirements;
- be informed about their rights and obligations for the duration of the contract; and
- be confident that they will be provided with correct and timely assistance from brokers in the event of a claim.

An insurance broker (“broker”) plays a vital role in providing prospective clients and policyholders with relevant information about the insurance marketplace and assessing insurance needs. Insurance brokers facilitate the purchase of insurance, and provide services to insurance companies and policyholders that complement the insurance process. The Authority recognizes the role of brokers in the conduct of the insurance business and appreciates that their observance of this Code can contribute to increased consumer confidence and penetration in the insurance industry.

## **2. PURPOSE**

The purpose of the Code is to assist the Authority in providing appropriate, effective and efficient supervision and regulation of insurance brokers. For the purpose of the Code, insurance broker has the meaning given in section 2(1) of Insurance Act, Chapter 306 of the Laws of St. Vincent and the Grenadines, Revised Edition 2009 (“the Insurance Act”) and the definition section of this Code.

The Code establishes duties, requirements and standards to be complied with by registered insurance brokers. The Code has been developed taking into consideration the international standards as set out by the International Association of Insurance Supervisors (“IAIS”). Whilst the Insurance Core Principle (“ICP”) 18 is specific to the supervision of intermediaries, including Insurance Brokers, other ICPs that apply include:

- ICP 19 on the Conduct of Business,
- ICP 21 on Countering Fraud in Insurance, and
- ICP 22 on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT).

It is important for brokers to maintain relationships with their clients even after the signing of the insurance contract or provision of service. It is also important for brokers to be honest, trustworthy and knowledgeable in the provision of service to policyholders.

### **3. APPLICATION**

This Code is being issued by the Financial Services Authority (herein after referred to as “the Authority”) and by the powers conferred by Section 10 of the Financial Services Authority Act, No.33 of 2011 (“the FSA Act”).

This Code shall apply to all insurance brokers authorized by law to carry out insurance business as intermediaries under the Insurance Act.

### **4. DEFINITIONS**

The following key definitions apply:

“**Address**” means the point of contact and it includes the post office box, physical location, e-mail, fax and fixed/mobile telephone number;

“**Broker service**” means any act performed by a person for or on behalf of a client or an insurer in the course of his professional service.

“**Customer/Clients**” means a policyholder and or a potential policyholder.

“**Insurance broker**” means any independent insurance professional individual or a firm or body corporate who for compensation as an independent contractor, negotiates, provides, or obtains insurance or the renewal or continuance of insurance on behalf of existing or prospective policyholders.

“**Insurance intermediation**” means the activity of soliciting, negotiating or selling insurance contracts through any medium.

“**Intermediary service**” means any act performed by a person for or on behalf of a client or an insurer:

- (a) the result of which is that a client may enter into any transaction in respect of an insurance contract with an insurer; or
- (b) with a view to –
  - (i) buying, selling or otherwise dealing in, managing, administering, keeping in safe custody, maintaining or servicing an insurance contract entered into by a client from an insurer;
  - (ii) collecting or accounting for premiums or other money payable by the client to an insurer in respect of an insurance contract; or
  - (iii) assist in the handling of claims.

**"Negotiate"** means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

**"Sell"** means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

**"Solicit"** means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company for compensation.

## **5. OBJECTIVES**

This Code sets out the market conduct and service standards expected of insurance brokers. They are meant to provide general guidance and are not intended to replace or override any legislative provisions or written directives issued under the Insurance Act in respect of business conduct requirements specifically applicable to insurance brokers.

This Code should be read in conjunction with the provisions of the Insurance Act as well as notices, circulars and other Codes/Guidelines that the Authority may issue from time to time.

## **6. CORPORATE GOVERNANCE**

- 6.1** The insurance broker must implement a documented corporate governance framework, which includes policies, processes and controls that the Authority considers appropriate given the nature, scale, complexity and risk profile of the Insurance Broker.
- 6.2** The insurance broker must appoint diverse and qualified individuals to its board of directors ("Board") who have the appropriate experience and expertise to be able to provide sound judgement and informed decision making to its governance process.

## **7. PRINCIPLES FOR CONDUCT OF INSURANCE BUSINESS**

### **7.1. Client Relationship**

- 7.1.1** A broker shall observe high standards of integrity and fair dealing in the conduct of its business.
- 7.1.2** A broker has an obligation to avoid misleading and deceptive acts or misrepresentations to the client as this is an offence. A broker should not seek to exclude or restrict any duty or liability to a customer that it has under a legislative framework. Additionally, it should not seek to rely unreasonably on any provision of a contract seeking to exclude or restrict any such duty or liability.
- 7.1.3** A broker shall act with due skill, care and diligence in the conduct of its business and in its dealings with customers.
- 7.1.4** A broker shall ensure that the client understands his/her relationship with the broker and on whose behalf the broker is acting.
- 7.1.5** In assessing the customers' needs, the broker shall:
- (i) seek such information about the customer's circumstances and objectives as might reasonably be expected to be relevant in enabling the insurance broker to identify the customer's requirements. This shall include any facts that would affect the type of insurance proposed, such as any relevant existing insurance contract; and
  - (ii) explain to the customer his duty to disclose all circumstances material to the insurance and the consequences of any failure to make such a disclosure, both before the insurance contract commences and throughout the duration of the contract; and take into account the information that the customer discloses.
- 7.1.6** For the purposes of 7.1.5 (ii), documentary evidence must be obtained.
- 7.1.7** All information in the possession of a broker relating to a client shall be kept confidential. A broker shall adopt documented policies and procedures that are designed to ensure that information about the client is kept confidential and secure.
- 7.1.8** Information shared should not be used in a manner for which it is not intended and the rights of the party sharing the information should always be protected so that information is not misused. Information shared under this arrangement must not be used for any other purpose but to keep the customers' database. This is particularly applicable in cases of information

obtained for Anti-Money Laundering (AML) purposes where both the insurer and the broker need to satisfy Know-Your-Customer (KYC) requirements. Accordingly, a broker should ensure that the necessary safeguards are in place for information stored electronically.

## **7.2 Sales Conduct**

**7.2.1** A broker must take reasonable steps to ensure that, if in the course of insurance negotiation, it makes any personal recommendation to a customer to buy an insurance product, the personal recommendation is suitable for the customer's needs at the time the personal recommendation is made.

**7.2.2** Where the broker makes a personal recommendation to the customer that does not meet all of the customer's needs as requested, the broker shall identify to the customer, at the point at which the personal recommendation is made, the needs that are not met by the insurance product.

**7.2.3** The personal recommendation to be given by the broker should be based on the information provided by the customer and on the customer's existing insurance cover. If the broker is aware that the customer's existing insurance cover is likely to significantly affect the suitability of any personal recommendation that the insurance broker might make, the broker must either:

- (i) not make a personal recommendation until details of the insurance cover are made available; or
- (ii) if the broker makes a personal recommendation, it should be made clear to the customer that this may not be suitable because the broker has not taken into account full details of the customer's existing insurance cover.

**7.2.4** In assessing whether an insurance product is suitable to meet a customer's needs, an insurance broker must take into account at least the following matters:

- (i) whether the level of cover is sufficient for the risks that the customer wishes to insure;
- (ii) the cost of the product, where relevant; and
- (iii) the relevance of any exclusion, excess, limitations or conditions in the contract.

**7.2.5** A broker shall explain to a customer:

- when and how premiums are payable,
- how such premium is to be collected, and
- the process to be followed in the event of a loss.

**7.2.6** When negotiating a sale, a broker must ensure that the customer signs the proposal form.

### **7.3 Disclosure of Information to Customers**

**7.3.1** A broker shall provide relevant and meaningful information in a timely and comprehensive manner to enable the customer to make a balanced and informed decision before entering into a contract.

**7.3.2** A broker shall provide clients with adequate information about their business including their business address and contact information.

**7.3.3** A broker shall explain all the essential provisions contained in the contract of insurance which they are recommending so as to ensure as far as possible that their clients understand what insurance cover they are buying.

**7.3.4** A broker shall draw the client's attention to any conditions or any exclusions and any warranty applying to the contract of insurance.

**7.3.5** The broker shall give the customer the following information before the conclusion of the insurance contract and ensure that any other information as may be required is available upon request, such as:

- (i) name of the insurer undertaking the risk;
- (ii) type of insurance;
- (iii) the duration of the contract;
- (iv) procedure for claims settlement;
- (v) significant features and benefits of the policy;
- (vi) the premium to be paid by the customer for the insurance product;  
and
- (vii) a telephone number or any other contact information through which a claim may be notified.

**7.3.6** Similarly, a broker should be ready to provide a customer with a full and fair account of the fulfilment of its responsibilities to him.

It is the responsibility of the broker to take reasonable care in explaining the working of the insurance policy that is being purchased by the customer.



## **7.4 Explanation of Information in the Contract**

### **7.4.1** Every broker shall:

- (i) provide the list of insurers participating under the insurance contract and advise of any subsequent changes thereafter;
- (ii) explain all the essential provisions of the cover afforded by the policy recommended by the broker so that, as far as possible, the prospective client understands what is being purchased;
- (iii) quote terms exactly as provided by insurer;
- (iv) provide the client with prompt written confirmation that the insurance policy has been effected. If the final policy wording is not included with this confirmation, the same shall be forwarded expeditiously;
- (v) notify changes to the terms and conditions of any insurance contract and give reasonable notice and in any event within seven (7) days, before any changes take effect; provided that no change shall be valid unless consented to by all parties;
- (vi) advise the clients on the consequences of surrendering the policy in its early years, as applicable; and
- (vii) vet/review the final policy wording for accuracy before it is given to the customer.

## **7.5 Premium Handling**

### **7.5.1** Every insurance broker:

- (i) has a legal responsibility with respect to the premiums received;
- (ii) must arrange proper protection for client's funds in cases where they are responsible for the safe keeping of those funds; and
- (iii) must ensure that reasonable care is taken to organize and control its affairs responsibly and effectively, with adequate administrative systems.

**7.5.2** A broker is required to maintain a separate bank account for its customers and adequate records of the amount of money transacted must be maintained and made available to the Authority when requested.

- 7.5.3** Monies received by a broker must be paid to the insurer directly or into the insurer's specified bank account within thirty (30) working days of receipt, pursuant to Section 96(1) of the Insurance Act.
- 7.5.4** All premiums collected and received by a broker from a policyholder must be used solely for the intended purpose i.e., settlement of premiums owed to the insurers for the purchase of an insurance contract.
- 7.5.5** Where, pursuant to Section 96(2) of the Insurance Act, an insurer at the request of a broker, provides cover to an insured, the broker is liable to the insurer for the premium due in respect of the cover and the premium may be sued for and recovered from the broker as a civil debt.
- 7.5.6** As part of effective record keeping, a broker must retain accurate payment records inclusive of receipts. Original receipts must be provided to policyholders as proof of payment and copies of the receipt must be sufficiently kept to show and explain the broker's transactions.
- 7.5.7** Premium payments by policyholders may be made payable to the broker, who in turn, must remit, on behalf of clients, payments for premiums or other transactions using their corporate/brokerage account.
- 7.5.8** In the event that an insurer issues a premium refund to a policyholder, the money must be returned to the clients or other authorized persons on whose behalf the money is held, promptly or within thirty (30) working days.

## **7.6 Renewal of Insurance Policy**

- 7.6.1** Every broker shall:
- (i) ensure that its client is informed in writing of the expiry date of the insurance policy not less than one month before the expiry date. Provided where the services of the broker are terminated by the insurer in a manner that it will not be possible for such broker to give the information of the expiry of the policy, the responsibility to provide such information shall lie with the insurer.
  - (ii) ensure that the renewal notices contain a notification regarding the duty of disclosure including the necessity to advise changes affecting the policy, which have occurred since the policy inception or the last renewal date.
  - (iii) draw attention to and explain the contents of the renewal notices as issued by the insurer.

## **7.7 Claims Handling**

### **7.7.1** Every broker shall:

- (i) explain to its clients their obligations to report claims promptly, to disclose circumstances surrounding the loss and advise subsequent developments as soon as possible. The broker shall inform the clients of the claims supporting documents that shall be required by the insurer at the time of making the claim;
- (ii) request the client to make true, fair and complete disclosure where it believes that the client has not done so and explain the consequences of such non-disclosure;
- (iii) give prompt advice to the client of any requirements concerning the claim;
- (iv) forward to the insurer any information received from the client regarding a claim or an incident that may give rise to a claim without delay, and in any event within seven (7) days;
- (v) advise the client without delay, and within seven (7) days of the insurer's decision or otherwise of a claim; and give all reasonable assistance to the client in pursuing the claim;
- (vi) where there is any dispute arising from a claim, advise the client on any mechanisms available to resolve the dispute in accordance with the terms of the policy.

**7.7.2.** There shall be no unreasonable or unsubstantial delays in determinations on claim settlements especially in instances where the unreasonable delay is to the detriment of the policyholder. A delay may be deemed reasonable where it is due to the actions of a third party which cannot be attributed to the insurer or the policyholder.

**7.7.3.** Claim settlement practices should be prompt, efficient and equitable. Attempts to intentionally delay claim payment or to intentionally quantify claim settlement amounts without appropriate rationale will not be accepted as good market conduct.

## **7.8 Complaints Handling**

**7.8.1.** Insurance brokers shall develop a complaint handling mechanism in keeping with the guidelines issued by the FSA on Complaints Handling

for Insurance Entities<sup>1</sup> to deal with customer complaints effectively and fairly through a simple and equitable process. This should be communicated to every proposer or policyholder. These procedures should be well disclosed and easily accessible. Such mechanism shall include provision for:

- (i) handling complaints in a fair, timely and appropriate manner;
- (ii) acknowledgment of complaints;
- (iii) maintenance of complaints register containing the details of complaints received and how they have been dealt with.

## **7.9 Documentation**

- 7.9.1.** A broker shall ensure that the documents issued under the insurance contract comply with both statutory and regulatory requirements.
- 7.9.2.** A broker is obliged to subject any client being onboarded to KYC requirements, by obtaining customer due diligence information on every customer, third party and beneficial owner. The information collected must be transmitted to the insurer underwriting the insurance contract.
- 7.9.3.** A broker shall ensure that it maintains appropriate books and records, including financial records, that are appropriate for its operations and functions as well as adequate financial systems and controls, that are subject to an appropriate control framework.
- 7.9.4.** A broker must keep and preserve a record of all local policies issued on behalf of registered insurers in St. Vincent and the Grenadines and the aggregate amount of premiums received on the policies. The Authority may request that the broker submit insurance policies and financial records for analysis and evaluation in keeping with Section 86 of the Insurance Act.
- 7.9.5.** A broker must have a record-keeping system that will enable the provision of relevant information to persons entitled to receive the information on a timely basis. This should include the identity of shareholders, directors, and officers. In addition, records of account and client records must be maintained in accordance with international best practices and applicable laws.
- 7.9.6.** A broker must ensure that the policy document is sent to the client as soon as the proposal of the client is accepted by the insurer, provided that:

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<sup>1</sup> FSA GUIDANCE NOTE: NO.7  
Complaints Handling for Insurance Entities (2017)

- (i) the policy document is sent no later than thirty (30) days from the date the contract was entered into with the insurer;
- (ii) the broker obtains an acknowledgement note signed and dated from the client acknowledging the receipt.

**7.9.7** A broker shall not withhold documentation from its clients without their consent, unless adequate and justifiable reasons are disclosed in writing and without delay to the client. Where documentation is withheld, the client must still receive a copy of the insurance contract.

## **7.10 Agreement and Remuneration**

**7.10.1.** As a general rule, a written agreement that addresses the scope of services to be provided by the broker and its compensation should be entered into between the broker and the insurer.

**7.10.2.** The basis of remunerating the broker by an insurer, shall be by means of a commission and/or fees as may be agreed upon by both parties.

## **7.11 Training**

**7.11.1.** A broker shall be required to possess relevant qualifications, knowledge and skill in insurance in accordance with the Competency Standards or otherwise prescribed by the Authority.

**7.11.2.** A broker shall act with competence and strive to maintain the necessary knowledge and expertise necessary for the proper conduct of its business activities.

**7.11.3.** Individual insurance brokers and principal officers of brokerage firms shall be required to pass or to be exempted from any insurance qualifications as the Authority may determine from time to time.

**7.11.4.** Insurance brokers shall ensure that the staff employed or so appointed are suitably qualified and competent, possess the relevant professional training or experience to act in the capacity so employed and ensure that the responsibilities and authority of each staff member are clearly defined and appropriate for his or her qualifications and experience.

**7.11.5.** A broker must ensure that adequate systems, controls, documented policies and procedures, are in place to ensure employees perform their duties in a diligent and proper manner. It is important that the staff understand and comply with the established systems, policies and procedures, including those dealing with a new client or financial

transactions. In particular, staff need to be able to identify suspicious transactions on an ongoing basis.

## **7.12 Conflict of Interest**

**7.12.1.** A broker shall avoid any conflict of interest and where conflict of interest arises disclose and decline to act.

**7.12.2.** A broker shall not place its interest above those of its customers.

## **7.13 Display of Certificate**

**7.13.1.** Pursuant to Section 80(2) of the Insurance Act, every broker shall display its Certificate of Registration as an insurance broker in a conspicuous manner at the office or place of business.

## **7.14 Certificate to be Produced on Request**

**7.14.1** A broker shall produce its certificate when requested to do so by an actual or prospective client, and by the insurer with which the broker proposes to transact business as per Section 81 (1) (c) of the Insurance Act.

## **7.15 Compliance with Annual Renewal of Certificate of Registration**

**7.15.1** A broker who is desirous of continuing to practice as an insurance intermediary, must renew its Certificate before the expiry of the original Certificate.

**7.15.2** In accordance with section 80 (5) of the Insurance Act, a person who practices as an insurance broker without a valid certificate commits an offence and shall be liable on conviction to a fine of five hundred dollars and to a further fine of fifty dollars for each day the contravention continues.

## **7.16 Advertisements**

**7.16.1** A broker should ensure that advertisements:

- (i) do not contain a statement, promise or forecast which is untrue or misleading;
- (ii) are not designed in such a way as to distort or conceal any relevant subject material; and
- (iii) do not contain a statement relating to past performance unless:

- (a) the basis on which such performance is measured is clearly stated and the presentation is fair; and
- (b) it is accompanied by a warning that past performance is not necessarily a guide to future performances.

## **7.17 Business Continuity and Disaster Recovery**

**7.17.1** A broker must document a business continuity and disaster recovery plan that addresses all of its key business processes and critical business functions. The effectiveness of the plan should be tested regularly.

## **7.18 Fraud**

**7.17.1** A broker shall have documented policies and procedures in place for dealing with fraud, including the necessary measures to prevent, detect and remedy fraud.

## **7.19 Cooperation with Regulatory Authorities**

**7.18.1** Brokers must deal openly and cooperate with the Authority and any other relevant regulatory authorities. A broker should notify the Authority of any proposed material changes to its business plan and should alert the Authority to any significant development relevant to its operations, its staffing or to its systems and controls environment.

**7.18.2** A broker must give written notice and details to the Authority where it has reason to believe that:

- (i) it will be unable to comply or be unable to demonstrate compliance with, the requirements of the Code or legislation;
- (ii) a director or employee has been engaged in activities involving fraud or other dishonesty;
- (iii) there is any material change to its Professional Indemnity cover; or
- (iv) there has been an attempted or successful material cyber breach.

## **7.20 Compliance**

**7.18.3** The Authority appreciates that Insurance Brokers have varying risk profiles depending on their operating model, services offered, and the nature, scale, and complexity of their business. Those with higher risk profiles require a more comprehensive governance, operational model and control, or risk management framework to ensure they conduct business in a sound and prudent manner.

**7.18.4** A broker shall establish and maintain systems and controls to enable on-going monitoring of compliance with this Code and ensure controls and procedures are properly documented.

**7.18.5** The Authority will assess compliance with the Code in a proportionate manner relative to a broker's nature, scale, and complexity (e.g., a broker could be relatively small in scale, but carry out extremely complex business, and therefore would still be required to maintain appropriate internal control and/or risk management framework). Accordingly, these factors will be considered collectively, rather than individually:

- (i) nature includes the relationship between the broker and the insurer and/or policyholder, and the characteristics of the services provided.
- (ii) scale includes size aspects such as the volume of business conducted in conjunction with materiality considerations.
- (iii) complexity includes organizational structures and ease of information transmission.

**7.18.6** Compliance with this Code will be checked by the Authority when it performs on-site inspections and also when it investigates complaints submitted to the Authority. During the on-site inspection, the Authority may include in its review, among other matters the following:

- (i) reviewing the broker's policy for compliance with this Code and any related training;
- (ii) checking the sufficiency and adequacy of the information given to the consumers;
- (iii) reviewing records of complaints, including the frequency and nature, and the timing and resolution of the matters raised in the complaints;
- (iv) reviewing the accounts of the broker to ensure that monies collected are paid over in accordance with Section 96 of the Insurance Act or in accordance with any agreement made with the insurer;
- (v) reviewing the frequency and nature of any litigation arising from the market conduct matters; and;
- (vi) generally assessing observance of the market conduct standards and consumer regulations.

## **8. ENFORCEMENT**

The Authority shall enforce compliance with this Code by exercising its powers on any broker who contravenes this Code or take any other measure as prescribed in the relevant law.



## **9. EFFECTIVE DATE**

This Code **shall come into effect this** 27<sup>th</sup> day of May, 2022.

### **Issued by:**

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