



**FINANCIAL SERVICES AUTHORITY**  
SAINT VINCENT & THE GRENADINES

**GUIDANCE NOTE: NO. 2**

**GUIDELINES**  
**FOR**  
**INSURANCE INTERMEDIARIES**

**Issued: November 18, 2014**

## **INTRODUCTION**

1. The conduct of insurance business in St. Vincent & the Grenadines is regulated under the Insurance Act, Chapter 306 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009 (“the Act”). Regulation and supervision of insurance business is exercised by the Financial Services Authority (“FSA”), acting under the authority of the FSA Act, Act No. 33 of 2011.
2. The FSA recognizes that failure of institutions has increasingly been attributed to adverse economic or market conditions as well as to the actions of individuals who hold positions of responsibility. The FSA further recognizes the need for clarity as to the scope and implementation of the provisions of the Act if the regulatory system is to command the confidence of insurers and policyholders. It seeks, therefore, to ensure that those operating in St. Vincent and the Grenadines have a good understanding of the nature of their legal obligations and also of the FSA’s approach in implementing the law.
3. These Guidelines seek to:
  - outline the expected standard of good insurance practice in the establishment of insurance contracts;
  - promote the disclosure of relevant and useful information to customers;
  - facilitate the education of customers about their rights and obligations under insurance contracts;
  - foster a high professional standard in the transaction of insurance business; and
  - encourage insurance intermediaries to promote and enhance the industry's public image and standing.

While the FSA aims to provide clarity as to its approach, these Guidelines are not intended to be exhaustive. The FSA, through the Guidelines, hereby sets out its understanding of the legal provisions affecting the fit and proper criteria and role with respect to the above approved persons.

4. These Guidelines are of general application and seek to take account the differences in intermediaries that may be licensed under the Act.
5. The FSA’s Guidelines should be understood as reflecting the minimum standard that the FSA expects insurers and approved persons to observe at all times. There may be a need for revision of the Guidelines from time to time. Material changes in the Guidelines will be published, generally through the issue of a revised version.

## **SCOPE OF APPLICATION**

6. Insurance intermediation involves the interface between insurers and actual or potential policyholders. Insurance intermediaries fall into two broad categories: those who act on behalf of the customer, for example; insurance brokers, and those who act on behalf of the insurer, for example; agents and sales representatives.

7. These Guidelines apply to individuals or companies who solicit, negotiate or sell insurance as employees of an insurer and/or receive compensation or anything of value for their service. Accordingly, these Guidelines apply to individuals or companies who must be approved or registered under the Insurance Act in the following functions: Broker, Agent, Adjuster and Sales Representative.

### **REQUIREMENTS FOR INTERMEDIARIES**

In accordance with the law, insurance intermediaries are required to be registered by the FSA, to conduct business in the State. Certificates of Registration are issued by the FSA to all insurance intermediaries authorized to conduct insurance business under the Insurance Act. Section 81 (1) of the Insurance Act requires all persons duly registered under the Act, to produce their certificate when requested to do so by an actual or prospective client or by any person during the course of business.

In order to be considered for approval by the FSA, a person must meet and in some instances maintain the following criteria as set out by the Act and these Guidelines:

8. **Fitness and propriety**- The FSA will have regard to a number of factors when assessing the fitness and propriety of a person to perform a particular duty pursuant to the Act. The most important considerations will be the person's:
  - Competence and capability; and
  - Honesty, integrity and reputation.

The criteria listed are guidance and will be applied in general terms when the FSA is determining a person's fitness and propriety. It would be impractical to produce a definitive list of all matters that would be relevant to a particular determination.

9. **Competence and Capability** - to carry on business as an intermediary in the particular class of insurance business for which he/she has applied to be registered.

In determining a person's competence and capability, the FSA will consider, as applicable, matters including, but not limited to:

- whether the person has relevant experience, sufficient skills, knowledge, and soundness of judgment properly to undertake and fulfill their particular duties and responsibilities;
- whether the person does or will devote sufficient time and attention to fulfilling or is likely to fulfill those duties and responsibilities in a diligent manner.

In assessing whether a person has the relevant competence, soundness of judgment and diligence, the FSA considers whether the person has had experience of similar responsibilities previously, the record in fulfilling them and, where necessary, whether the person has appropriate qualifications and training. In relation to soundness of judgment, the FSA will assess the person's previous conduct and decision-making.

**10. Honesty, Integrity and Reputation-** It is paramount that a person approved or registered under the Act is of high integrity. Accordingly, the FSA will take into account a person's honesty, integrity and reputation when considering an application. When determining a person's honesty, integrity and reputation, the FSA will consider all appropriate factors including but not limited to the following:

- whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any impending proceedings or of any investigation, which might lead to such proceedings;
- whether the person has engaged in any business practices which are deceitful, oppressive or otherwise improper (whether unlawful or not), or which otherwise reflect discredit on his professional conduct;
- whether the person, or any business in which he has controlling interest or exercises significant influence, has been investigated, disciplined, suspended or criticized, by a regulatory body, a supervisory authority or professional body, a court or a tribunal, whether publicly or privately;
- whether the person has been associated, in ownership, directorship or management capacity, with a company, partnership or other business association that has been refused registration, authorization, membership or a licence to conduct trade, business or profession, or has had that registration, authorization, membership or licence revoked, withdrawn or terminated;
- whether, as a result of the removal of the licence, registration or other authority, the person has been refused the right to carry on a trade, business or profession requiring a licence;
- whether the person has been the subject of any justified complaint relating to regulated activities in St. Vincent and the Grenadines;
- whether the person has been charged or convicted of any criminal offence, particularly an offence relating to dishonesty, fraud, money-laundering, theft, malpractice, financial crime or other criminal acts or been involved in any acts of misfeasance or serious misconduct;
- whether the person has contravened any of the requirements and standards of a regulatory body, a professional body, a supervisory authority, government or its agencies, which are of the nature and/or significance that may have affected his fitness and probity;
- whether the person has been a director, partner, or otherwise involved in the management, of a business that has gone into receivership, insolvency, or liquidation while the person was connected with that business or within one year after the connection;
- whether the person has been dismissed, asked to resign or resigned from employment or from a position of trust, fiduciary appointment or similar position because of questions about his fitness and probity;
- whether the person has ever been disqualified from acting as a director or serving in a managerial capacity;
- whether the person has contributed significantly to the failure of an organisation or a business unit;

- whether, in the past, the person has been fair, truthful and forthcoming in his dealings with his customers, superiors, auditors and regulatory authorities; and
- whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and other legal, regulatory or professional requirements and standards.

11. **Professional Knowledge & Experience** – It is important that individuals working as intermediaries have adequate professional knowledge in the field of Insurance and Insurance Services which would enable them to carry out their responsibilities. Professional knowledge can be gained from experience, education and training. It is preferable that professional knowledge be supported by the attainment of relevant professional qualifications in Insurance and Insurance Services. In assessing an applicant's professional knowledge and experience, the FSA will also consider whether the applicant has complied with any requirement relating to the passing of any examination.

It is necessary that individuals responsible for insurance intermediation have professional qualifications and experience appropriate for the business which they intermediate. Accordingly, consideration will be given to whether the applicant is capable of carrying on the business efficiently in the capacity in which he/she seek to be registered. Once professional qualifications have been achieved, it is important that individuals, who continue to work as insurance intermediaries, keep their professional knowledge up to date.

Intermediaries are also expected to have a broad knowledge of the insurance marketplace, including products, an acute sense of the needs of the insurance purchasers and a general understanding of the laws and regulations that govern the operations of insurance companies and intermediaries.

12. **Professional Indemnity Insurance**, in the case of a person applying to carry on business as an insurance broker.

### **RESPONSIBILITIES OF THE INTERMEDIARY**

13. **Promoting Public Trust and Confidence in the Insurance Sector** – The insurance intermediary must be able to demonstrate that he/she is knowledgeable about the product which is being sold. He/she must be able to provide accurate facts and figures. The FSA expects intermediaries to conduct business according to **professionally accepted standards**, by obtaining professional qualifications, continuous professional development, to exhibit ethical behaviour, and ensure the fair treatment of customers among other things. These measures will aid in enhancing public confidence in insurance intermediaries and by extension the insurance sector.

14. **Promoting Financial Awareness** – Intermediaries' face-to-face dealings with their customers and the marketing of products to consumers place them in a position to contribute to strengthening the financial awareness and education of the public on risks and insurance matters. As insurance options have multiplied, customers increasingly need someone to educate and advise them on selecting the best coverage to fit their particular

needs. Intermediaries can therefore promote consumer protection by assisting consumers to make better informed decisions about the products which they buy. The FSA expects insurers also to monitor the activities of such intermediaries after they are registered, including the quality and suitability of any advice and products sold by them.

15. **AML/CFT Compliance** - In some cases, the insurer relies on an intermediary to perform processes on its behalf. For example, insurers are expected to obtain appropriate documentation regarding their customers to demonstrate that appropriate customer due diligence has been carried out for the purposes of AML/CFT. Insurers will be assessed on the adequacy of the processes carried out and documentation obtained, including even where the insurer relies upon intermediaries to perform this work and supply the documentation required.
16. **Safeguards to protect clients' funds** – In the course of carrying on business, an insurance intermediary may receive monies from a client for the payment of premiums to an insurer or receive monies from an insurer in respect of claims or refunded premiums for onward payment to a client. It is therefore recommended that where applicable, intermediaries use a separate client account clearly distinguishable from the intermediary's own account and implement adequate financial systems and controls with respect to clients' funds.

### **COMMENCEMENT**

These Guidelines shall come into effect this 18<sup>th</sup> day of November 2014.

#### **Issued by:**

Financial Services Authority  
P.O Box 356,  
Kingstown,  
St. Vincent & the Grenadines  
Tel (784) 456-2577  
Fax (784) 457-2568  
E-mail: [info@svgfsa.com](mailto:info@svgfsa.com)