

INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS



PRINCIPLES FOR THE CONDUCT OF INSURANCE BUSINESS

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Principles for the Conduct of Insurance Business

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Definitions:

In this paper:

Insurer/Insurance company refers to a licensed legal entity which underwrites insurance.

Insurance supervisory authority refers, as appropriate, to either the insurance regulatory authority or the insurance supervisory authority in the jurisdiction.

Jurisdiction refers to a country, state, province or other territory with legally enforceable local insurance laws which relate to the incorporation or operation of insurers and/or intermediaries.

Intermediary refers to any person who, or organisation which, gives advice by way of direct offering advertising or on a person-to-person basis in respect of an insurance product and includes the promotion of such product or the facilitation of an agreement or contract between an insurer and a customer. Intermediaries are generally divided into separate classes. The most common types are ‘Independent intermediaries’ who represent the buyer in dealings with the insurer (also known as independent brokers) and ‘agents’ (which generally include multiple agents and sub-agents) who represent the insurer;

Service provider refers to an insurer and/or intermediary, read in the context of its usage.

Customer implies policyholder and potential policyholder.

I. Background

1. The principal task of all insurance supervisory authorities is to establish a means of ensuring high standards of financial soundness and conduct of all insurers under their supervision. The main objectives of such supervisors are to provide a high degree of security to the policyholders and to maintain the confidence in the industry.
2. For a large number of market participants insurance products are difficult to understand and evaluate. They take the form of contractually agreed promises by the insurer to provide benefits or compensation (indemnity) to cover specified events or risks in exchange for certain obligations by the policyholder. As a result it is important for customers to have relevant, meaningful and understandable information, as far as possible in writing. Written information may be supplemented by verbal information. Accordingly persons providing verbal information must possess the necessary knowledge to give advice.
3. Arrangements must therefore exist for potential policyholders to have access to all material information before the conclusion of an insurance contract, to receive advice in a correct and meaningful manner in assessing their insurance requirements, to be informed about their rights and obligations for the duration of the contract, to be confident that they will receive correct and timely compensation in the event of a legitimate claim and in case of doubt to be able to receive supplementary advice from a neutral body. Policyholders have a right to deal with honest, trustworthy and knowledgeable insurers and intermediaries.
4. Insurers and intermediaries have a greater knowledge of insurance issues than the majority of policyholders. Consumers may not be able to detect contracts which could be biased in favour of insurers, which may be unreasonably interpreted to favour the insurer or which simply fail to meet their needs. Marketing methods could place potential policyholders under pressure. There could be other anti-consumer practices that support the need for sound market conduct principles. It is for these reasons that conduct of business principles, approved by regulators, should be in place.
5. **Principles** for the conduct of insurance business can be expected to improve insurer, intermediary and consumer relationships and thereby strengthen consumer confidence and protection. A set of common *principles* should provide basic standards of business conduct, wherever business is undertaken. This should facilitate cross border business, encourage competition and protect the integrity of the market. Such a framework of *principles* will provide guidance as to what are legitimate and acceptable market practices. It will set the background to test types of behaviour that may lead to enforce action (if applicable) and provide guidance for setting local rules so that those adversely affected by market abuse have a facility to seek appropriate redress.
6. The tasks of domestic regulators will be made easier if international principles can be agreed upon. This implies that each jurisdiction should decide on the legislative status, implementation and accountability regarding these *principles*. Clear responsibilities should be established for monitoring, enforcing and instituting sanctions, where necessary. These principles could be developed further by setting standards which could then be adapted by

domestic regulators to fit their own circumstances. These standards will be the subject of separate papers.

7. The *principles* are intended to apply to insurers and intermediaries involved in all aspects of insurance. The issues are described in terms of the implications of these *principles* in the retail insurance market place. This approach is not intended to preclude the application of the *principles* to the wholesale, employee benefit and reinsurance markets.

8. These *principles* for the conduct of insurance business are applicable to the conduct of both insurers and intermediaries, whether they are individuals or legal entities. Specific *principles* may be applicable to only one or either of them. However, adherence to these Principles by insurers and/or intermediaries does not mean consumers should not take the utmost care in assessing the risks and the suitability of the product to their needs.

II. Principles for the Conduct of Insurance Business

Insurance supervisors should therefore ensure that the following *principles* be adhered to in the best interests of the customers and the integrity of the market.

Principle 1: Integrity

Insurers and intermediaries should at all times act honestly and in a straightforward manner.

9. Service providers have an obligation to avoid misleading and deceptive acts or representations. Service providers should not seek to exclude or restrict any duty or liability to a customer which it has under a legislative framework and/or accepted practices. It should also not seek to unreasonably rely on any provision seeking to exclude or restrict any such duty or liability.

Principle 2: Skill, Care and Diligence

In conducting their business activities, insurers and intermediaries should act with due skill, care and diligence.

10. The service provider has a duty to act competently and diligently with regard to all transactions between itself and the customer. Where appropriate an assessment of the customer's individual requirements should be made to determine what insurance coverage is necessary. The concept of 'care' implies that insurers and intermediaries should discharge those duties as can reasonably be expected from a prudent person in a like position and under similar circumstances. It also includes arranging adequate protection for a customer's assets when responsible for them in the context of the nature of the service provider's legal structure and the business it undertakes.

Principle 3: Prudence

Insurers and intermediaries should conduct their business and organise their affairs with prudence.

11.1 This includes:

- maintaining adequate financial resources, including adequate liquidity, and
- maintaining effective risk management systems.

11.2 Prudence requires the insurer not to assume risks without taking due account of the possible consequences. 'Adequate' implies the taking into account of the necessary margins for unexpected contingencies. The possible impact of the insurer's non-regulated activities on its regulated activities should also be taken into account.

Principle 4: Disclosure of Information to Customers

Insurers and intermediaries should pay due regard to the information needs of their customers and treat them fairly.

12.1 This includes communicating:

- relevant and meaningful information in a timely and comprehensive manner to enable the customer to make a balanced and informed decision;
- the benefits and any risks to the customer in a fair and balanced way;
- the obligations of both the service provider and the customer in a clear and understandable way.

12.2 The service provider should take reasonable care that the information is accurate in all material respects, not misleading, easily understandable and available in writing or appropriate electronic means.

12.3 The customer should be given information about:

- the intermediary (if applicable) and especially its status i.e. whether the intermediary is independent or tied, e.g. whether the intermediary acts for the customer or the insurer;
- the insurer;
- the product e.g. price, cover, conditions, aims of product, risk factors, guarantees, special exclusions, et cetera;
- charges and estimated returns (if applicable); and

- complaints handling and other contractual arrangements;

12.4 The frequency with which information is to be disclosed should depend on the type of contractual arrangement.

Principle 5: Information about Customers

Insurers and intermediaries should seek from their customers information which might reasonably be expected before giving advice or concluding a contract.

13. The relationship between the service provider and customer should be one of trust. To build such a relationship the service provider should obtain sufficient information about the customer to assess its insurance needs. Information which a customer expects to be confidential should be treated as such. Customers should be informed about their duty to disclose relevant information.

Principle 6: Conflicts of Interest

Insurers and intermediaries should avoid conflicts of interest.

14. A service provider should avoid conflicts of interest. However where conflicts arise, the service provider should ensure fair treatment to all its customers by disclosure, internal rules of confidentiality, declining to act, or otherwise. A service provider should not unfairly place its interests above those of its customers and where a properly informed customer would reasonably expect that the service provider would place the customer's interests above its own, the service provider should live up to that expectation.

Principle 7: Relationship with Regulators

Insurers and intermediaries should deal with their regulators in an open and cooperative way.

15. The service provider should deal with its regulator/supervisor in an open and cooperative manner and keep the regulator/supervisor promptly informed of significant events.

This principle extends to information and notification of events concerning non-regulated activities where appropriate. Service providers must ensure that an effective compliance programme is in place that meets the regulator/supervisor's requirements.

Principle 8: Complaints

Insurers and intermediaries should support a system of complaints handling where applicable.

Service providers should deal with complaints of customers effectively and fairly. A simple and equitable process of dispute resolution should be available through which complaints of customers can effectively be dealt with. This process should be well disclosed and easily accessible. It is advisable that, in addition, a neutral body, independent of the service providers, be set up as an alternative dispute resolution mechanism to deal with such complaints in an effective and affordable manner. Such neutral body should report publicly, at least annually and service providers should voluntarily support such a system.

Principle 9: Management and Control

Insurers and intermediaries should organise and control their affairs effectively.

17.1 A service provider should keep effective control over its own affairs. The management and control systems required will vary depending on the size and complexity of the service provider. Relatively simple procedures will be enough in the case of a one-person business, while sophisticated systems of control are likely to be necessary in the case of a complex organisation.

17.2 The service provider should, where appropriate:

17.2.1 have directors and senior managers who are and remain fit and proper for their roles;

17.2.2 apportion responsibilities among its directors and senior managers in such a way that:

- their individual responsibilities are clear; and
- the business of the service provider is adequately monitored through systems of internal control at senior management and board level;

17.2.3 operate robust arrangements for meeting the standards and requirements of the regulatory system, and for guarding against involvement in market abuse or financial crime (including the detection and prevention of money laundering); and

17.2.4 keep adequate and orderly records of its business and internal organisation.

17.3 Paragraph 17.2.1 deals with the service provider's responsibility to make sure its people are suitable for the roles they fill. This extends to competence as well as honesty, and in some cases their financial position may also be relevant. Persons who carry out functions on behalf of the service provider include not only employees, but also all kinds of intermediaries, corporate agents and providers of out sourced services.

17.4 Paragraph 17.2.2 requires the service provider to operate a clear division of duties among its directors and senior managers and to make sure that the whole business of the service provider are controlled at senior management level through an appropriate combination of individual and collective responsibilities.

17.5 Paragraph 17.2.3 requires the service provider to operate compliance arrangements that are robust and reliable. They must include safeguards against participating in or being used by others as a vehicle for market abuse or financial crimes such as money-laundering.

17.6 Paragraph 17.2.4 requires good records of business transacted which includes, whether audited or not, accounting statements, financial returns and/or statutory reports, including the balance sheet and income statement prepared for disclosure to the public and/or the insurance supervisory authorities. Good records also contain descriptions of the internal organisation - for example, of the apportionment and responsibilities among senior managers.

III. General

18. The above *principles* will form the base for specific standards of market conduct. These standards may have statutory backing or be supervised and enforced by industry associations, depending on what individual jurisdictions decide. They may contain some prescriptive measures and options from which supervisors may choose, - they may define best practice.