Insurance Intermediaries Rule 4 of 2007

Code of Conduct for Insurance Intermediaries

Rule pursuant to article 4 of the Act

1. (1) This Insurance Intermediaries Rule on the Code of Conduct for persons registered in the Agents Register, Managers Register or Brokers Register and persons enrolled in the Agents List, Managers List or Brokers List and carrying out insurance intermediaries activities ("this Rule") is made by the Authority pursuant to, and for the purposes of, article 4 of the Act.

(2) This Rule shall come into force on the 1st March 2007.

Application

2. This Rule applies to -

(a) a person desirous of applying for registration and, on continuing basis, a person registered, in the Agents Register, Managers Register or Brokers Register;

(b) a person desirous of applying for enrolment and, on continuing basis, a person enrolled in the Agents List, Managers List or Brokers List and carrying out insurance intermediaries activities,

(the "insurance intermediary").

Scope

3. (1) The scope of this Rule is to determine a Code of Conduct which shall serve as a guide to insurance intermediaries and other persons concerned with their conduct but the mention or lack of mention in it of a particular act or omission shall not be taken as conclusive of any question of professional conduct.

(2) The objective of the Code is to assist in establishing a recognised standard of professional conduct required of all insurance intermediaries who should, in the interest of the public and in the performance of their duties, bear in mind both this objective and the underlying spirit of the Code.

The fundamental principles

4. (1) The following are, in the opinion of the Authority, the acts and omissions which, if done or made by insurance intermediaries constitute unprofessional conduct; namely, any acts or omissions that breach the fundamental principles governing the professional conduct of insurance intermediaries set out in paragraph (2) of this article.

(2) The principles mentioned in paragraph (1) of this article are as follows -

(a) Insurance intermediaries shall at all times carry out insurance intermediaries activities and any other commercial business which insurance intermediaries may carry out by virtue of the Act with utmost good faith and integrity;

(b) Insurance intermediaries shall do everything which is reasonably possible to satisfy the insurance requirements of their clients and shall place the interests of those clients before all other considerations. Subject to these requirements and interests, insurance intermediaries shall have proper regard for others;

(c) Statements made by or on behalf of insurance intermediaries when advertising shall not be misleading or unrealistic.

Application of the fundamental principles

5. Specific examples of the application of the fundamental principles are set out in the Schedule to this Rule.

Repeals and Savings

6. (1) Without prejudice to article 4(2) of the Preliminary provisions, and saving the provisions of paragraph (2) of this article, Insurance Intermediaries Directive 4 of 1999 – Code of Conduct for Insurance Brokers, is hereby repealed.

(2) Every action, directive, instruction, guideline or order whatsoever taken or commenced thereunder, shall continue to be valid and in force, as if such action, directive, instruction, guideline or order were taken or commenced under this Rule.

S C H E D U L E

(Article 5 of the Rule)

Specific Examples of the Application of the Fundamental Principles

1. The following are some specific examples of the application of the fundamental principles -

(1) Insurance intermediaries shall ensure that all work carried out in connection with their business shall be under the control and the continuous supervision of a registered insurance intermediary and they shall do everything possible to ensure that their employees are made aware of this Code.

(2) Insurance intermediaries shall not withhold from the policyholder any written evidence or documentation relating to the contract of insurance without adequate and justifiable reasons being disclosed in writing and without delay to the policyholder.

(3) Insurance intermediaries shall inform a client of the name and other relevant particulars of all insurers with whom a contract of insurance is placed. This information shall be given prior to the conclusion of the contract and any changes thereafter shall be advised at the earliest opportunity to the client.

(4) Before any work involving a charge or fee is undertaken or an agreement to carry out business is concluded, insurance intermediaries shall disclose and identify in writing any amount they propose to charge to the client or policyholder which will be in addition to the premium payable to the insurer.

(5) Insurance intermediaries shall have proper regard for the wishes of a policyholder or client who seeks to terminate any agreement with them to carry out business.

(6) Any information acquired by an insurance intermediary from his client shall not be used or disclosed except in the normal course of negotiating, maintaining or renewing a contract of insurance for that client or in accordance with the provisions of the Act or the Insurance Business Act, 1998 or unless the consent of the client has been obtained.

(7) In the completion of the proposal form, claim form, or any other material document, insurance intermediaries shall make it clear that all the answers or statements are the client's own responsibility. The client should always be asked to check the details and told that the incomplete and inaccurate information may result in a claim being repudiated.

(8) The insurance intermediary shall:

(a) acknowledge receipt to the policyholders or clients of all money received in connection with an insurance policy and distinguish the premium, document duty and motor vehicle licence fee, where applicable, and any charge or fee imposed in addition to the premium, shall be disclosed separately;

(b) have printed on the receipt, the full name and business address of the insurance intermediary;

(c) have printed on it the enrolment number of the insurance intermediary;

(d) show the full name and address or Identity Card number of the prospective policyholder;

(e) make reference to the type of policy in respect of which the money was paid including, where applicable, the policy number or reference number;

(f) show the name and address of the insurer offering or issuing the policy;

(g) sign and date the receipt and give a copy to the policyholder or client, as the case may be.

(9) Advertisements made by or on behalf of insurance intermediaries shall comply with the applicable articles of Insurance Intermediaries Rule 5 of 2007 on Insurance Intermediaries Advertisements and Other Promotional Activities and, for this purpose, Insurance Intermediaries Rule 5 of 2007, shall be deemed to form part of this Code of Conduct.

(10) Any member of the public who is not satisfied with the manner his complaint has been considered by an insurance intermediary should be directed to refer the matter to the Consumer Complaints

Manager appointed by the Authority by virtue of article 20 of the Malta Financial Services Authority Act.

2. In addition to the provisions of paragraph 1 of this Schedule, insurance intermediaries carrying on business as insurance brokers shall comply with the following provisions:

(1) In the conduct of their business, insurance brokers shall provide advice objectively and independently.

(2) Although the choice of an insurer can only be a matter of judgement, insurance brokers shall use their skill objectively in the best interest of their client.

(3) Insurance brokers' independence should not only be respected but also be seen to be respected. In the spirit of such independence, insurance brokers who have interest in providing long term business policies when approached by a client for advice as to whether or not the client should cancel or surrender an existing long term policy, insurance brokers shall disclose their interest in providing long term business policies before giving or attempting to give, advice on the matter.