

## GUIDELINES FOR INSURANCE BROKERS

### PART I - PRELIMINARY

#### Purpose and Authorization

1. These Guidelines are intended to provide the framework and procedure for the licensing of Insurance brokers. These Guidelines for Insurance brokers are issued under the powers granted to the Maldives Monetary Authority by the Insurance Industry Regulations 2004.

#### Short Title

2. These Guidelines may be cited as the Guidelines for Insurance brokers.

#### Commencement

3. These Guidelines shall come into force with effect from ..... day of April 2010.

### PART II – GENERAL PROVISIONS

#### Interpretation

4. In these Guidelines, unless the context otherwise requires:-

*“Broker”* has the meaning as in the Insurance Industry Regulation.

*“Authority”* means Maldives Monetary Authority.

*“Principal Officer”* means a person who, alone or jointly with others, is responsible for the conduct of the insurance broking business of such insurance broker.

*“Insurance brokerage income”* means brokerage income derived from advising on or arranging any contract which contains an element of insurance, irrespective of the extent of such insurance element.

5. In these Guidelines, unless otherwise context requires, words importing the masculine gender shall include the feminine and words in the singular shall include the plural and vice versa; and “a person” shall include an individual and any entity or body of persons whether incorporated or not.

## **Restrictions**

6. No person shall carry on business as an insurance broker unless holding a license issued by the Authority authorizing to carry on insurance brokering business.
7. No Person shall use in business activity the words “Insurance broker” , words of similar connotation, without having a licence issued by the Authority to carry on insurance brokering business.

## **Transitional Arrangement**

8. Not later than 6 (six) months following the enforcement of these Guidelines, all insurance brokers, currently providing insurance brokerage in the Maldives shall obtain insurance broker licence in accordance with these Guidelines.

## **PART III–LICENCING**

### **Application for Insurance broker licence**

9. Any person who desires to insurance broker licence shall apply in writing to the Authority, and shall include all supporting documentation as per the application form provided in Appendix A of these Guidelines. The applicant shall provide such additional information as the Authority may require.
10. Applications for insurance broker licence shall be accompanied by a non-refundable application fee of Maldivian Rufiyaa 30,000 (thirty thousand).
11. In making a decision, the Authority will either (i) grant a licence; or, (ii) inform the applicant that it refuses to grant a licence.
12. Notwithstanding any provisions contained herein, the Authority shall be entitled, in its absolute discretion, to refuse any application for licence.

### **Licensing Requirements**

13. No person shall be granted insurance broker licence unless such person:-
  - (a) is a limited liability **company** registered under the laws of the Maldives;
  - (b) have paid up share capital not less than such amount as required under Section 25 of these Guidelines;

- (c) whose business plan envisions having, a proper organizational structure with effective internal control mechanisms, an appropriate accounting system for recording transactions;
  - (d) the applicant and all of its major shareholders, directors, managing director or chief executive officer, principal officer and any person participates in policy making functions or any person who is responsible for any material portion of its business, meets fit and proper criteria provided in Appendix B of these Guidelines.
  - (e) has appointed a Principal Officer who meets fit and proper criteria provided in the Appendix B of these Guidelines.
14. No person shall be entitled to obtain insurance broker license, where such person is a shareholder of any insurer; or a director or chief executive officer of any insurer; or subsidiary company of an insurer.

#### **Conditions of licensing**

- 15. An insurance broker licence granted by the Authority shall be valid for an indefinite period unless revoked under the Insurance Industry Regulation and these Guidelines.
- 16. An insurance broker shall commence its business within 90 (ninety) days from the effective date of the licence.
- 17. An insurance broker shall not engage in criminal activities including fraud, money laundering and the financing of terrorism.
- 18. An insurance broker shall operate only under a name that has been approved for use by the Insurance broker by the Authority.
- 19. An insurance broker shall comply with the Insurance Industry Regulation, these Guidelines, the Fit and Proper Criteria provided in Appendix B, the Code of Conduct as specified in Appendix C, all other prudential requirements and other guidelines adopted by the Authority from time to time and any other relevant laws and regulation of the Republic of Maldives.
- 20. An insurance broker shall ensure that it continues to have a Principal Officer at all times. Where the position of the Principal Officer becomes vacant, the Broker shall inform the Authority immediately and appoints Principal Officer within 30 days or such reasonable time as may be determined by the Authority. If the position of such Principal Officer becomes vacant, the insurance broker shall cease to carry its business until Principal Officer is engaged pursuant to these Guidelines.

21. Every insurance broker shall pay to the Authority an annual fee of 5,000 (five thousand) Rufiyaa. The annual fees for each year shall be paid to the Authority not later than by the end of the month of January. There shall be no refund of any licence fee paid to the Authority in the event that a licence is cancelled, revoked or suspended or when the insurance broker ceases to carry on business at any time.
22. The Authority may impose additional conditions on the operations of an insurance broker subsequent to the initial licensing and to modify or waive any conditions of licensing in writing, with notice of the modification or waiver.
23. An insurance broker's failure to conform to a condition of licensing shall, in the discretion of the Authority, be a ground for revocation of the licence or other enforcement action as the Authority may determine.

#### **Register of Insurance brokers and Principal Officers**

24. The Authority will maintain Insurance Brokers Register and Principal Officer Register. Both register will be made available for inspection by the public which will record, for each insurance broker and its Principal Officers, the name, address and such other information, if any, regarding each of them as the Authority determine would be useful for the public.

### **PART IV– SPECIFIC REQUIREMENTS**

#### **Minimum Required Capital**

25. An insurance broker shall at all times maintain paid-up capital of not less than 500,000 (five hundred thousand) Maldivian Rufiyaa, or such higher amount as may be specified by the Authority.

#### **Insurance brokering Accounts**

26. An insurance broker shall pay into an account maintained by him with a licensed bank located in the Maldives, solely for the purposes of this section all moneys received by the broker:
  - (a) from or on behalf of an insured or intending insured for or on account of an insurer in connection with a contract of insurance arranged or effected or to be arranged or effected by the Broker;; or
  - (b) from or on behalf of an insurer for or on account of an insured or intending insured.

27. An account maintained under Section 26 shall be called an "Insurance Broking Account", with or without other words of description.
28. An insurance broker shall not, except with the approval of the Authority, withdraw moneys from an account maintained by the Broker under Section 26 except;
  - (a) for payment to or for a person entitled to receive payment of the moneys, including the Broker himself in so far as he is entitled to receive payment for himself;
  - (b) for payment to or for an insurer in respect of amounts due to the insurer under or in relation to a contract of insurance arranged or effected by the broker (including a contract of insurance that has been cancelled);
  - (c) charges, fees or commission earned and interest received from the funds deposited into the account; and
  - (d) for repayment of moneys that were paid into the account in error.
29. For the purpose of Sections 26, 2728, "money" means any sum received by an insurance broker as agent for an insured or intending insured including policy moneys, premiums and claims payments.
30. The moneys in an account maintained by a Broker under Section 26 shall not be attached, sequestered or levied upon for or in respect of any debt of the Insurance broker or any claim whatsoever against the Insurance broker, and if the Insurance broker is declared insolvent or is wound up by an order of court, the moneys in the bank account shall be deemed not to form part of the property of the Insurance broker.

### **Security Deposit**

31. Every insurance broker shall, before the commencement of his business, deposit and keep deposited with the Authority Rupees 200,000 (two hundred thousand).
32. Where an insurance broker has surrendered its licences or has been revoked, the Authority may enforce the security deposit to the extent required to pay any sums outstanding and claimed by the any party.
33. Where an insurance broker has surrendered its licence or has been revoked, the Authority shall, upon being satisfied that there is no outstanding claim against the insurance broker, release the security deposit or the remainder thereof, as the case may be, to the insurance broker.

34. Any security furnished by a insurance broker under this section shall not be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever, and if the Insurance broker is declared insolvent or is wound up by an order of the court.

### **Professional indemnity insurance**

35. Every Insurance broker, within 6 (six) months from the effective date of the license shall take out and maintain at all times a professional indemnity insurance policy.
36. The professional indemnity insurance policy shall cover:
- (a) any error or omission or negligence on his part or on the part of his employees and directors;
  - (b) any loss of money or other property for which the Insurance broker is legally liable in consequence of any financial or fraudulent act or omission;
  - (c) any loss of documents and costs and expenses incurred in replacing or restoring such documents;
  - (d) dishonest or fraudulent acts or omissions by brokers' employees or former employees.
37. The professional indemnity policy shall not be required to afford indemnity to any person committing or making any dishonest or fraudulent act or omission.
38. The professional indemnity policy shall, unless otherwise permitted by the Authority in writing:
- (a) shall not contain any terms to the effect that payments of claims depend upon the Insurance broker having first met the liability;
  - (b) shall indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred.
39. The policy obtained under Section **Error! Reference source not found.** shall provide a minimum limit of indemnity in :
- (a) a sum equal to two times the aggregate insurance brokerage income for the last financial year ending prior to the inception or renewal of the policy; or
  - (b) a sum equal to two times the projected insurance brokerage income for the first financial year of its operation, where a broker who has been in business for less than one year.

### **Duty to maintain net asset value**

40. Every insurance broker shall maintain a net asset value of such amount as may be prescribed by the Authority.

#### **Duties of broker in relation to premiums and claims**

41. Where :
- (a) money is received by a insurance broker from, or on behalf of, an insured or intending insured, as a premium or an installment of a premium in connection with a contract of insurance or propose of contract of insurance;
  - (b) the risk, or a part of the risk, to which the contract or proposed contract relates is accepted by an insurer; and
  - (c) the broker who so received the money is informed of, or otherwise ascertains, the amount of premium or installment to be paid, the broker who so received the money shall pay to the insurer, to which the contract or proposed contract relates is accepted an amount equal to the premium or installment to be paid, within ..... days after the day on which the cover provided by the insurer under the contract commences to have effect or the first day to which the installment related, as the case may be.
42. Where an insurance broker receives money from an insurer for payment to, or on behalf on an insured, the broker shall pay an amount equal to the money to the insured within 7 (seven) days after the day on which the broker received the money.

#### **Books of account and other Records**

43. Every Insurance broker shall keep complete books, accounts, records and registers as may determine by the Authority.
44. Insurance broker shall within 4 (four) months from the end of each financial year or within such longer period as the Authority may allow, submit audited accounts which shall comprise of a balance sheet, a profit and loss accounts and a note to such accounts, certified by a qualified auditor.
45. Every insurance broker shall furnish to the Authority, such returns and information at such time and in such manner as the Authority may specify.
46. The Authority may impose a charge or administrative penalty on any insurance broker who fails to furnish any returns or information required on such time as specified by the Authority.

## **PART V – ENFORCEMENT MEASURES**

### **Corrective measures**

47. If an insurance broker violates or fails to comply with any provision of these guidelines, the Authority may take any one or more of the following corrective measures.
- (a) send a written warning to the party;
  - (b) give orders to the party to cease and desist from particular actions, or requiring the party to take affirmative action to correct the violations;
  - (c) require that the party to cease some of its operations; or
  - (d) impose a charge or administrative penalty.

### **Revocation and Suspension of Licence**

48. The Authority may revoke a licence granted to an insurance broker if :-
- (a) it satisfied that the person has obtained the licence or authorization by any false, incorrect or misleading statement or any failure or omission to disclose any factor matter that is material to the application of the licence or authorization.
  - (b) he fails to comply with any condition of licensing.
  - (c) he fails to comply with the Insurance Industry Regulation, these Guidelines, the Fit and Proper Criteria provided in Appendix B, and with all other prudential requirements and other guidance adopted by the Authority from time to time.
  - (d) he has been convicted of a criminal offence involving fraud, misrepresentation or dishonesty.
49. The Authority may suspend a licence granted to an insurance broker, one or more of the grounds listed in Section 48 occur or have occurred.

## **APPENDIX – B**

### **FIT AND PROPER CRITERIA**

1. An applicant for insurance broker license shall be fit and proper person.
2. The insurance broker shall ensure that its major shareholders, directors, managing director or chief executive officer, principal officer and any person participates in policy making functions or any person who is responsible for any material portion of its business, is at all times fit and proper in accordance with these Guidelines.
3. An applicant for insurance broker license or an insurance broker must satisfy the following conditions and requirements.
4.
  - (a) must not be convicted criminal offence involving fraud, misrepresentation or dishonesty or any other offence under the Penal Code.
  - (b) must not has accepted civil liability for fraud or misrepresentation under any law.
  - (c) must not has been disqualified or suspended by a competent Authority from practicing a profession on grounds of personal misconduct unrelated to his political views or activities.
  - (d) must have sufficient competency, in terms of relevant experience and academic qualifications, to reasonably conclude that he will be able to discharge satisfactorily his duties and responsibilities.
  - (e) must not be an undercharged bankrupt.
  - (f) must comply with the Insurance Industry Regulation or these Guidelines or any other prudential requirements and other guidance issued by the Authority from time to time.
5. In addition to the requirements listed under Section 4, principal officer of an insurance broker shall:
  - (a) be at least 18 years of age;

- (b) be citizen of Maldives; and
  - (c) have associate or fellowship in insurance or any post graduate qualification in insurance from any recognised institution of insurance; or have bachelors or master degree in art, science or social sciences or commerce or its equivalent from any institution or university recognised by the Maldives Accreditation Board and was engaged in insurance business for more than two years; or have relevant experience in the field of insurance for more than five years.
6. Authority may consider a person not fit and proper to act or continue acting as an insurance broker if, in the opinion of Authority, by his words or actions, he has manifested a material lack of understanding of the duties and ethical responsibilities of an insurance agent or a Responsible Officer.

## **Appendix C**

### **CODE OF CONDUCT FOR INSURANCE BROKERS**

1. Every Insurance broker shall follow recognised standards of professional conduct and discharge its functions in the interest of the policyholders, be independent and impartial in providing advice to its clients and place the interests of the client above all other; and avoid conflict of interest.

#### **Conduct in matters relating to clients relationship**

2. Every insurance broker shall:
- (a) conduct its dealings with clients with utmost good faith and integrity at all times;
  - (b) act with reasonable care and diligence;
  - (c) act in the best interest of the client;
  - (d) ensure that the client understands his relationship with the broker and on whose behalf the broker is acting;

- (e) treat all information supplied by the prospective clients as completely confidential to themselves and to the insurer(s) to which the business is being offered;
- (f) take appropriate steps to maintain the security of confidential documents in their possession;
- (g) hold specific authority of client to develop terms; and
- (h) understand the type of client it is dealing with and the extent of the client's awareness of risk and insurance.

### **Conduct in matters relating to Sales practices**

3. Every Insurance broker shall:

- (a) confirm that he does not employ agents or canvassers to bring in business;
- (b) identify himself and explain as soon as possible the degree of choice in the products that are on offer;
- (c) ensure that the client understands the type of service it can offer;
- (d) ensure that the policy proposed is suitable to the needs of the prospective client;
- (e) give advice only on those matters in which it is knowledgeable and seek or recommend other specialist for advice when necessary;
- (f) not make inaccurate or unfair criticisms of any insurer or any insurance intermediary;
- (g) explain why a policy or policies are proposed and provide comparisons in terms of price, cover or service where there is a choice of products;
- (h) state the period of cover for which the quotation remains valid if the proposed cover is not effected immediately;
- (i) explain when and how the premium is payable and how such premium is to be collected, where another party is financing all or part of the premium, full details shall be given to the client including any obligations that the client may owe to that party;
- (j) explain the procedures to follow in the event of a loss;
- (k) disclose fees, commissions charge by the broker; and

- (l) as soon as perfectible, after broker has effected a contract of insurance, inform the insured of the name of the insurer and its place of business.

### **Conduct in relation to furnishing of information**

4. Every Insurance broker shall: —
  - (a) ensure that the consequences of non-disclosure and inaccuracies are pointed out to the prospective client;
  - (b) avoid influencing the prospective client and make it clear that all the answers or statements given are the latter's -own responsibility. Ask the client to carefully check details of information given in the documents and request the client to make true, fair and complete disclosure where it believes that the client has not done so and in case further disclosure is not forthcoming it should consider declining to act further;
  - (c) explain to the client the importance of disclosing all subsequent changes that might affect the insurance throughout the duration of the policy; and
  - (d) disclose on behalf of its client all material facts within its knowledge and give a fair presentation of the risk.

### **Conduct in relation to explanation of insurance contract**

5. Every Insurance broker shall:
  - (a) provide the list of insurer(s) participating under the insurance contract and advise any subsequent changes thereafter;
  - (b) explain all the essential provisions of the cover afforded by the policy recommended by him so that, as far as possible, the prospective client understands what is being purchased;
  - (c) quote terms exactly as provided by insurer;
  - (d) draw attention to any warranty imposed under the policy, major or unusual restrictions, exclusions under the policy and explain how the contract may be cancelled;
  - (e) provide the client with prompt written confirmation that insurance has been effected. If the final policy wording is not included with this confirmation, the same shall be forwarded as soon as possible;

- (f) notify changes to the terms and conditions of any insurance contract and give reasonable notice before any changes take effect; and
- (g) advise its clients of any insurance proposed on their behalf which will be effected with an insurer outside Maldives, where permitted, and, if appropriate, of the possible risks involved.

### **Conduct in relation to renewal of policies**

6. Every Insurance broker shall:

- (a) ensure that its client is aware of the expiry date of the insurance even if it chooses not to offer further cover to the client;
- (b) ensure that renewal notices contain a warning about 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;
- (c) ensure that renewal notices contain a requirement for keeping a record (including copies of letters) of all information supplied to the insurer for the purpose of renewal of the contract; and
- (d) ensure that the client receives the insurer's renewal invitation well in time before the expiry date.

### **Conduct in relation to claim by client**

7. Every Insurance broker shall: —

- (a) explain to its clients their obligation to notify claims promptly and to disclose all material facts and advise subsequent developments as soon as possible;
- (b) request the client to make true, fair and complete disclosure where it believes that the client has not done so. If further disclosure is not forthcoming it shall consider declining to act further for the client;
- (c) give prompt advice to the client of any requirements concerning the claim;
- (d) forward 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 **three working days**;

- (e) advise the client without delay of the insurer's decision or otherwise of a claim; and give all reasonable assistance to the client in pursuing his claim.
- (f) provided that the insurance broker shall not take up recovery assignment on a policy contract which has not been serviced through him or should not work as a claims consultant for a policy which has not been serviced through him.
- (g) not knowingly be a party to, or assist in, making of a fraudulent claim or a claim which is partly fraudulent.
- (h) Assist insured with advise in the event of a claim being disputed or rejected including such as to availability of dispute resolution mechanisms.

### **Conduct in relation to receipt of complaints**

- 8. Every insurance broker shall:
  - (a) ensure that letters of instruction, policies and renewal documents contain details of complaints handling procedures;
  - (b) accept complaints either by phone or in writing;
  - (c) acknowledge a complaint within a reasonable time period from the receipt of correspondence, advise the member of staff who will be dealing with the complaint and the timetable for dealing with it;
  - (d) ensure that response letters are sent and inform the complainant of what he may do if he is unhappy with the response;
  - (e) ensure that complaints are dealt with at a suitably senior level;
  - (f) have in place a system for recording and monitoring complaints.

### **Conduct in relation to documentation**

- 9. Every insurance broker shall:—
  - (a) ensure that any documents issued comply with all statutory or regulatory requirements from time to time in force;
  - (b) send policy documentation without avoidable delay,
  - (c) make available, with policy documentation, advice that the documentation shall be read carefully and retained by the client;

- (d) 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 full details of the insurance contract;
- (e) acknowledge receipt of all monies received in connection with an insurance policy;
- (f) ensure that their reply is sent promptly or use its best endeavours to obtain a prompt reply to all correspondence;
- (g) ensure that all written terms and conditions are fair in substance and set out, clearly and in plain language, client's rights and responsibilities; and
- (h) subject to the payment of any monies owed to it, make available to any new insurance broker instructed by the client all documentation to which the client is entitled and which is necessary for the new insurance broker to act on behalf of the client.

### **Conduct in matters relating to advertising**

10. Every insurance broker shall:

- (a) ensure that statements made are not misleading;
- (b) where appropriate, distinguish between contractual benefits which the insurance policy is bound to provide and non-contractual benefits which may be provided;
- (c) ensure that advertisements shall not be restricted to the policies of one insurer, except where the reasons for such restriction are fully explained with the prior approval of that insurer;
- (d) ensure that advertisements contain nothing which is in breach of the law nor omit anything which the law requires;
- (e) ensure that advertisement does not encourage or condone defiance or breach of the law;
- (f) ensure that advertisements contain nothing which is likely, in the light of generally prevailing standards of decency and propriety, to cause grave or widespread offence or to cause disharmony;

- (g) ensure that advertisements are not so framed as to abuse the trust of clients or exploit their lack of experience or knowledge;
- (h) ensure that all descriptions, claims and comparisons, which relate to matters of objectively ascertainable fact shall be capable of substantiation.

### **Conduct in matters relating receipt of remuneration**

11. Every Insurance broker shall:

- (a) disclose if he proposes to charge the client, and if so in what manner;
- (b) advise the client in writing of the insurance premium and any fees or charges separately and the purpose of any related services;
- (c) if requested by a client, disclose the amount of remuneration or other remuneration it receives as a result of effecting insurance for that client. This will include any payment received as a result of securing on behalf of the client any service additional to the arrangement of the contract of insurance; and
- (d) advise its clients, prior to effecting the insurance, of their intention to make any deductions from the amount of claim collected for a client, where this is a recognized practice for the type of insurance concerned.

### **Conduct in relation to matters relating to training**

12. Every Insurance broker shall:

- (a) make certain that its staff are aware of and adhere to the standards expected of them by this code;
- (b) ensure that staff are competent, suitable and have been given adequate training;
- (c) ensure that there is a system in place to monitor the quality of advice given by its staff;

- (d) ensure that members of staff are aware of legal requirements affecting their activities; and only handle classes of business in which they are competent;
- (e) draw the attention of the client to Section 14 of this code of conduct, which prohibits rebating and sharing of commission.

13. Every Insurance broker shall display in every office where it is carrying on business and to which the public have access a notice to the effect that a copy of the code of conduct is available upon request and that if a member of the public wishes to make a complaint or requires the assistance of the Authority in resolving a dispute, he may write to the Authority.
14. An Insurance broker shall not offer a rebate directly or indirectly, as an inducement to any person to take or renew or continue an insurance in respect of any kind of risk relating to lives or property, any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer.
15. Every Insurance broker shall abide by the provisions of the Insurance Industry Regulations 2004, Guidelines for Insurance brokers and other directives made there under which may be applicable and relevant to the activities carried on by them as insurance brokers.