

BOTSWANA INSURANCE BROKERS ASSOCIATION

**INSURANCE BROKERS
CODE OF CONDUCT**

Adopted on: [•] 2023

What is the Insurance Brokers Code of Conduct

1. This Code of Conduct (**Code**) is an initiative of the Botswana Insurance Brokers Association of (**BIBA**). BIBA intends to be a driving force for change in the Botswana insurance broking industry, setting higher standards for professionalism and education for insurance brokers, promoting industry-standard from all its members and those who subscribe to the Code.
2. This Code of Conduct shall serve as a guide to insurance brokers 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 or any question of professional conduct.
3. The objective of the Code is to assist in establishing a recognised standard of professional conduct required of all insurance brokers who should, in the interest of the public, nation and in the performance of their duties, bear in mind both this objective and the underlying spirit of this Code.
4. The Code is independently monitored and enforced by the BIBA Council or delegated persons.

How the Code Works

5. The Code applies to all members of BIBA (**Members**). Non-members may adopt the Code with approval from BIBA (**Code Subscribers, we, our, us**).
6. The Code applies to all services and activities a Code Subscriber who engages in and advising on or arranging insurance and other related products on behalf of a client or prospective client including services and products provided on a stand-alone basis. This includes but is not limited to: (i) alternative risk transfer solutions such as discretionary mutual funds; (ii) premium funding arrangements; (iii) claims handling services; and (iv) risk management.
7. Insurance brokers shall provide a copy of this Code to each of their managerial and technical staff and should ensure that the terms of it are fully understood by them and should display in any office where they are 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.

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8. If a member of the public wishes to make a complaint of unprofessional conduct such complaint shall be addressed to The Secretary, Botswana Insurance Brokers Association.

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Code Principles

9. The Code is underpinned by a set of guiding principles outlined below (Code Principles).

10. Professional commitment

- 10.1. The Code Subscribers should improve their competency through relevant qualifications, continued education and training.
- 10.2. The Code Subscribers should promote and uphold the ethical standards of this profession, including promoting the Code and the Code Principles within and outside their organisations.

11. Ethical behaviour

- 11.1. The Code Subscribers should act honestly and with integrity in all dealings.
- 11.2. The Code Subscribers should comply with all relevant laws and obligations, including those obligations set out in this Code.
- 11.3. The Code Subscribers should not engage in any conduct with the intent to avoid or limit our obligations under the Code.

12. Transparency and accountability

- 12.1. The Code Subscribers should communicate with clients and prospective clients in a clear and timely manner.
- 12.2. The Code Subscribers should assist regulators, the BIBA Council and external dispute resolution schemes (such as the Non- Bank Financial Institution Regulatory Authority and The Non-Bank Financial Institutions Tribunal) to the best of their ability.
- 12.3. The Code Subscribers should hold each other accountable for the promotion and implementation of the Code, and for observing Code obligations.

13. The Code Subscriber should follow recognised standards of professional conduct and discharge their functions in the interest of the clients or policyholders which include but not limited to the following:

13.1. **Conduct in matters relating to clients relationship**

Every Code Subscriber shall: —

- 13.1.1. conduct its dealings with clients with utmost good faith and integrity at all times;
- 13.1.2. act with care and diligence;
- 13.1.3. ensure that the client understands their relationship with the insurance broker and on whose behalf the insurance broker is acting;
- 13.1.4. 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;
- 13.1.5. take appropriate steps to maintain the security of confidential documents in their possession;
- 13.1.6. hold specific authority of client to develop terms;
- 13.1.7. understand the type of client it is dealing with and the extent of the client's awareness of risk and insurance;
- 13.1.8. obtain written mandate from client to represent the client to the insurer and communicate the grant of a cover to the client after effecting insurance. Unless it is specifically mentioned otherwise, the written mandate obtained from the client shall be valid for a period of one year if the mandate has no validity period mentioned. However, in the case of pre-underwritten policies or retail/individual policies there is no requirement of obtaining mandate from the client;
- 13.1.9. obtain written mandate from client to represent the client to the insurer/reinsurer and confirm cover to the insurer after effecting re-insurance, and submit relevant reinsurance acceptance and placement slips;
- 13.1.10. avoid conflict of interest;

- 13.1.11. obtain necessary documents required under know-your customer norms and share with insurance company; and
- 13.1.12. assist the client in opening e-insurance account (if applicable).

13.2. Conduct in training and competency

Every Code Subscriber shall: —

- 13.2.1. take reasonable steps to keep up to date with technical matters, changes in the market to products, legislation and regulation to the extent that these relate to the products and/ or services upon which they are authorized to advise or arrange;
- 13.2.2. meet the minimum competency, experience and continuous professional development (CPD) requirements for intermediaries prescribed by the Regulator, if any;
- 13.2.3. maintain a CPD programme in line with the category of business sold;
- 13.2.4. take reasonable steps to comply with any training and competency schemes implemented by the Non- Bank Financial Institution Regulatory Authority; and
- 13.2.5. maintain proper learning and continuing professional development records.

13.3. Conduct in matters relating to Sales practices

Every Code Subscriber shall: —

- 13.3.1. identify itself and explain as soon as possible the degree of choice in the products that are on offer;
- 13.3.2. ensure that the client understands the type of service it can offer;
- 13.3.3. ensure that the policy proposed is suitable to the needs of the prospective client;
- 13.3.4. give advice only on those matters in which it is knowledgeable and seek or recommend other specialist for advice when necessary;

- 13.3.5. not make inaccurate or unfair criticisms of any insurer or any member of the BIBA or member of such body of brokers as approved by the Non- Bank Financial Institution Regulatory Authority;
- 13.3.6. 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;
- 13.3.7. state the period of cover for which the quotation remains valid if the proposed cover is not effected immediately;
- 13.3.8. 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; and
- 13.3.9. explain the procedures to follow in the event of a loss.

13.4. **Conduct in instances of conflict of interest**

Every Code Subscriber shall: —

- 13.4.1. disclose, to the customer, the existence of any circumstance which may give rise to an actual or potential conflict of interest in relation to the intermediary and take all reasonable steps to ensure fair treatment of the customer.
- 13.4.2. not act in a manner which is inconsistent with the prioritization of the interests of the customer ahead of all others;
- 13.4.3. act with circumspection and treat customers fairly in a situation of conflicting interests; and
- 13.4.4. where disclosure has been made orally, this should be made available to the customer in a durable medium as soon as reasonably possible.

13.5. **Conduct in relation to furnishing of information**

Every Code Subscriber shall: —

- 13.5.1. ensure that the consequences of non-disclosure and inaccuracies are pointed out to the client;
- 13.5.2. whenever possible, make an appointment before visiting a customer

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- 13.5.3. where unsolicited calls are unavoidable, yet deemed to be in the customer's best interests, ensure that they are made on a day and at a time likely to be convenient to the customer.
- 13.5.4. pay due regard to the duties of disclosure, reasonable search and fair presentation of risk as it relates to the customer and itself and reasonably seek to gather sufficient information so that adequate disclosure, or where appropriate, a fair presentation of risk can be made to insurers and/or underwriters;
- 13.5.5. avoid influencing the 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;
- 13.5.6. explain to the client the importance of disclosing all subsequent changes that might affect the insurance throughout the duration of the policy; and
- 13.5.7. disclose on behalf of its client all material facts within its knowledge and give a fair presentation of the risk; and
- 13.5.8. take reasonable steps to identify the knowledge of the customer when gathering information and deciding what information to gather, in the absence of which, the customer should be considered a layman for insurance purposes.

13.6. **Conduct in relation to explanation of insurance contract**

Every Code Subscriber shall: —

- 13.6.1. provide the list of insurer(s) participating under the insurance contract and advise any subsequent changes thereafter;
- 13.6.2. explain all the essential provisions of the cover afforded by the policy recommended by him so that, as far as possible, the client understands what is being purchased;
- 13.6.3. quote terms exactly as provided by insurer;

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- 13.6.4. disclose to the customer any and all remuneration to be received in connection with a transaction. If the amounts are not known, then the basis of calculation should be provided;
- 13.6.5. pay due regard to the information needs of the customer and communicate information in a timely manner and in a way which is clear, fair and not misleading in terms that the customer can understand and upon which the customer can make an informed decision;
- 13.6.6. take into account the knowledge of the customer when deciding what to explain. In the absence of any judgement being made, the customer should be considered a layman for insurance purposes;
- 13.6.7. 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;
- 13.6.8. 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;
- 13.6.9. forward full policy documentation to the customer as soon as reasonably possible where this has not been included with confirmation of cover;
- 13.6.10. where there is a mid-term adjustment, deal with the matter promptly and take the opportunity to remind the customer of the duty of disclosure, and where appropriate, fair presentation of risk and reasonable search
- 13.6.11. not make comparisons with another type of policy unless he explains the differing terms, outlining the advantages and disadvantages of each policy as they might affect that customer and the identified demands and needs of that customer.
- 13.6.12. notify changes to the terms and conditions of any insurance contract and give reasonable notice before any changes take effect; and
- 13.6.13. advise its clients of any insurance proposed on their behalf which will be effected with an insurer outside Botswana , where permitted, and, if appropriate, of the possible risks involved.

13.7. **Conduct in relation to renewal of policies**

Every Code Subscriber shall:—

- 13.7.1. 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;
- 13.7.2. confirm to the customer his existing cover, prior year premium, any significant changes in cover or terms and draw the customer's attention to, and explain, significant and/or onerous conditions in the proposed contract of insurance and their effect, which may affect the customer's decision or, if not complied with, might result in the avoidance of the policy, a repudiation or reduction of a claim
- 13.7.3. 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;
- 13.7.4. 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;
- 13.7.5. ensure that the client receives the insurer's renewal invitation well in time before the expiry date; and
- 13.7.6. not advise a customer to replace or cancel an insurance contract unless it is in the best or stated interests of the customer.

13.8. **Conduct in relation to claim by client**

Every Code Subscriber shall:—

- 13.8.1. explain to its clients their obligation to notify claims promptly and to disclose all material facts and advise subsequent developments as soon as possible;
- 13.8.2. 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;
- 13.8.3. give prompt advice to the client of any requirements concerning the claim;

- 13.8.4. 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; and
- 13.8.5. 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.

13.9. *Conduct in relation to receipt of complaints*

Every Code Subscriber shall:—

- 13.9.1. ensure that letters of instruction, policies and renewal documents contain details of complaints handling procedures;
- 13.9.2. accept complaints either by phone or in writing;
- 13.9.3. acknowledge a complaint within fourteen days from the receipt of correspondence, advise the member of staff who will be dealing with the complaint and the timetable for dealing with it;
- 13.9.4. ensure that response letters are sent and inform the complainant of what he may do if he is unhappy with the response;
- 13.9.5. ensure that complaints are dealt with at a suitably senior level;
- 13.9.6. have in place a system for recording and monitoring complaints.

13.10. *Conduct in relation to documentation*

Every Code Subscriber shall:—

- 13.10.1. ensure that any documents issued comply with all statutory or regulatory requirements from time to time in force;
- 13.10.2. send policy documentation without avoidable delay;
- 13.10.3. make available, with policy documentation, advice that the documentation shall be read carefully and retained by the client;
- 13.10.4. 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;

- 13.10.5. acknowledge receipt of all monies received in connection with an insurance policy;
- 13.10.6. ensure that they reply is sent promptly or use its best endeavours to obtain a prompt reply to all correspondence;
- 13.10.7. 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
- 13.10.8. 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.

13.11. **Conduct in relation to Advertisements**

Every Code Subscriber shall:—

- 13.11.1. ensure that advertisements made by or on behalf of insurance brokers should distinguish between contractual benefits, that is those that the contract of insurance is bound to provide, and non-contractual benefits, that is the amount of benefit which it might provide assuming the insurers particular forecast is correct. Where such advertisements include a forecast of non-contractual benefits, insurance brokers should restrict the forecast to that permitted under section 102 of the Insurance Industry Act.
- 13.11.2. advertisements made by or on behalf of insurance brokers should not be restricted to the policies of one insurer except where the reasons for such restriction are fully explained in the advertisement, the insurer named therein, and the prior approval of the insurer obtained.
- 13.11.3. when advertising their services directly or indirectly either in person or in writing insurance brokers should disclose their identity, occupation and purpose before seeking information or before giving advice.

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Section 102 speaks to use of local intermediaries