

VIRGIN ISLANDS

REGULATORY (INSURANCE CODE OF CONDUCT) CODE, 2021

ARRANGEMENT OF SECTIONS

Section

1. Citation and commencement.

Preliminary

2. Definitions.
3. Purpose of this Insurance Conduct Code.
4. General interpretive notes.

Part I

General Conduct Principals

5. Honesty, integrity, transparency & good faith.

Part II

Rules of Market Conduct for Insurers and Insurance Intermediaries

6. Transparency and appropriate presentation of facts and details.
7. Fair advertisements and promotions.
8. Professional competence.
9. Confidentiality and appropriate use of information.
10. Prompt and fair processing of claims.
11. Prompt consideration of customer complaints.
12. Management of conflict of interest situations.
13. Policy servicing.
14. Insurers' Engagement with insurance intermediaries.
15. Insurers' Engagement with loss adjusters

Part III

Rules of Market Conduct for Loss Adjusters

16. Interpretation for this Part.
17. Management of conflict of interest situations.
18. Disclosure of information.
19. Confidentiality and appropriate use of information.
20. Prompt and fair investigation and negotiation of claims.

VIRGIN ISLANDS

STATUTORY INSTRUMENT 2021 NO. __

FINANCIAL SERVICES COMMISSION ACT, 2001

Regulatory (Insurance Code of Conduct) Code, 2021

[Gazetted _____, 2021]

The Financial Services Commission, in exercise of the powers conferred by section 41 of the Financial Services Commission Act, 2001 (No. 12 of 2001) and after consultation with the Minister of Finance and with the approval of the Board, issues this Regulatory Code.

Citation and commencement.

- 1.** (1) This Code may be cited as the Regulatory (Insurance Code of Conduct) Code, 2021 and shall come into force on the 6th day of July, 2021.

[EXPLANATORY NOTES

Basis of the Regulatory (Insurance Code of Conduct) Code

- (i) *The Regulatory (Insurance Code of Conduct) Code (hereinafter referred to as “the Insurance Conduct Code”) specifies rules relating to the market conduct of insurers that perform domestic business as defined under the Insurance Act, 2008 [“the Act”] and insurance intermediaries; it also covers loss adjusters licensed pursuant to the Act or registered to carry out the business of loss adjusters under a relevant legislation. This Insurance Conduct Code is issued in accordance with the provisions of section 41(1)(a) of the Financial Services Commission Act [“FSC Act”] and takes account of the provisions outlined in section 71(2) of the Act.*

Objective of the Insurance Conduct Code

- (ii) *The objective of the Insurance Conduct Code is to ensure that insurers, insurance intermediaries and loss adjusters take all reasonable steps to protect customers and to ensure that customers are treated fairly, in accordance with section 71(1) of the Act.*
- (iii) *The Insurance Conduct Code is intended to:*
- (a) *strengthen public trust and customer confidence in the Virgin Islands’ insurance market;*
 - (b) *protect policyholders and promote fair customer outcomes;*

- (c) *increase transparency within the insurance sector, so as to enhance customers' understanding of what they can reasonably expect from insurers, insurance intermediaries and loss adjusters; and*
- (d) *support a sound and resilient insurance sector which allows for competition, whilst maintaining business practices that support the fair treatment of customers.*

Scope of Insurance Conduct Code

- (iv) *The Insurance Conduct Code applies to Category A and Category B insurers and insurance intermediaries licensed under the Insurance Act to carry on domestic business, as well as loss adjusters, including public adjusters. The Insurance Conduct Code also applies to any branch or representative office of a Category A or B insurer that operates in the Virgin Islands.*
- (v) *This Insurance Conduct Code does not apply to reinsurance business.*

Status of Insurance Conduct the Code

- (vi) *As the Insurance Conduct Code is made by the Commission under powers given to it under the FSC Act, it has the status of delegated or subsidiary legislation. A number of international standards require matters to be included in "law" and as subsidiary legislation, the Insurance Conduct Code has the status of "law" in the Virgin Islands. A requirement in the Insurance Conduct Code:*
 - (a) *must therefore be complied with by every person to whom it applies;*
 - (b) *has effect as law and therefore has the same legal force as if it had been contained in the FSC Act or in other financial services legislation; and*
 - (c) *is enforceable by the Commission [see "Enforcement of this Insurance Conduct Code" below].*
- (vii) *Insurers, insurance intermediaries and loss adjusters must be able to demonstrate to the Commission how they comply with the general principles and rules specified within this Insurance Conduct Code.*

Enforcement of this Insurance Conduct Code

- (viii) *The Commission has the power to take enforcement action against a licensee if the licensee has contravened, or is in contravention of, the Insurance Conduct Code [FSC Act s. 37(1)(a)(i)]. A licensee for the purposes of the FSC Act includes insurers, insurance intermediaries and*

loss adjusters. Where the Commission is entitled to take enforcement action against a licensee, the FSC Act provides the Commission with a range of enforcement powers. These include issuing a directive, requiring a licensee to appoint a qualified person to advise it, undertaking an investigation into a licensee's business and imposing administrative penalties. Any contravention of the Insurance Conduct Code will also be taken into account by the Commission in assessing whether a licensee is "fit and proper" to continue to hold a licence or whether its directors and senior managers are fit and proper to be concerned with the management of the licensee. In appropriate cases, the Commission may issue a public statement concerning the licensee [FSC Act s. 37A]. The Commission will, through its off- and on-site monitoring programme, assess the compliance of licensees with the Insurance Conduct Code.

Status of the Explanatory Notes and Examples of Misconduct

- (ix) *With the objective of making the Insurance Conduct Code as user friendly as possible, the Insurance Conduct Code is supplemented by Explanatory Notes and Examples of Misconduct which are set out immediately following the sections of the Insurance Conduct Code to which they apply. As specified in section 4(1) of the Insurance Conduct Code, the Explanatory Notes and Examples of Misconduct are not part of the Insurance Conduct Code and do not, therefore, have the force of law. Nevertheless, the Explanatory Notes and the Examples of Misconduct should be read together with the Conduct Code.*
- (x) *Explanatory notes are used to set out—*
 - (a) *Important background or explanatory information;*
 - (b) *the factors that the Commission will take into account in considering whether or not a requirement in the Conduct Code, the FSC Act or a regulatory enactment has been complied with; and*
 - (c) *guidance on how the Commission expects insurer, insurance intermediaries and loss adjusters to comply with the Conduct Code.*
- (xi) *Examples of Misconduct to illustrate behaviour which is deemed unacceptable in the operation of insurance business and may be considered a breach of the Conduct Code. The Examples of Misconduct should not be considered as a finite list of all the behaviours that are deemed unacceptable, but should serve as a general guide on what can constitute unacceptable behaviour.*
- (x) *To distinguish them from the Conduct Code, the Explanatory Notes and Examples of Misconduct are printed in italics.]*

Preliminary

2. The following definitions apply for the purposes of this Insurance Conduct Code—

Definitions.

“Act” means the Insurance Act, 2008;

“benefit” means a monetary sum paid or payable to a recipient for which the insurance company has received the premiums;

“claim” means a request made by a policyholder to an insurance company for coverage or compensation for a loss incurred from an insured peril;

“claimant” means the party making a claim under an insurance contract;

“commission” means a fee paid to an insurance intermediary or salesperson as a percentage of the premium generated by a sold insurance policy;

“condition” means an action or actions that a policyholder must take, or continue to take, for the insurance policy to remain in force and the insurance company to process a claim;

“coverage” means the protection offered under an insurance policy;

“customer” means any policyholder, prospective policyholder or applicant for a contract of insurance;

“domestic business” bears the meaning specified in section 2 (1) of the Act;

“grace period” means the period after the date the premium is due during which the premium can be paid with no interest charged and the policy remains in force;

“insurer” bears the meaning specified in section 2 (1) of the Act;

“insurance intermediary” bears the meaning specified in section 2 (1) of the Act;

“Internet site”, in relation to the Commission, means the principal public access Internet site for the time being maintained by, or on behalf of, the Commission;

“loss adjuster” bears the meaning specified in section 2 (1) of the Act;

“market value” means the price for which insured property would be expected to command if sold in a competitive market;

“overinsurance” means that a policyholder’s insurance benefits exceed the actual value of the risk or property;

“policy servicing” means providing ongoing services appropriately to the policyholder until all obligations under the policy have been satisfied;

“policy-holder” means the party to whom a contract of insurance has been issued by an insurer, including where the contract of insurance was issued by an insurance intermediary on behalf of an insurer;

“replacement value” means the sum to reinstate an insured’s damaged or destroyed property to its state prior to the occurrence of the event causing the damage or destruction;

“senior manager” and “senior management” bears the meaning specified in section 4 of the Regulatory Code;

“Regulatory Code” means the Regulatory Code, 2009;

“underinsurance” means an insurance contract whereby a policyholder’s insurance coverage is inadequate to completely cover a specific loss or damage.

Purpose of this Conduct Code.

3. (1) The principal purpose of this Insurance Conduct Code is to set out specific requirements applicable to the high level Principles of Business particularly of Integrity, Customers’ Interests and Transparency as set out in section 8 of the Regulatory Code.

(2) This Conduct Code does not limit the generality of the Principles of Business referred to in subsection (1).

General interpretive provisions.

4. (1) The Explanatory Notes and Examples of Misconduct provided under any sections of this Conduct Code do not represent legal interpretations of the sections concerned, but are merely to serve as a guide and to afford clarity in better understanding the sections and overall requirements of obligations contained within the Conduct Code.

(2) Notwithstanding subsection (1), a court or the Commission, may in dealing with any matter under or in relation to this Conduct Code, have regard to the Explanatory Notes and the Examples of Misconduct provided in this Conduct Code.

PART I

General Conduct Principles

Honesty, integrity, transparency and good faith.

5. An insurer, insurance intermediary or loss adjuster shall operate its business with integrity and in good faith. In doing so, an insurer, insurance intermediary or loss adjuster shall—

- (a) never provide customers with false or misleading information or misrepresent the coverage being provided or intended to be provided under an insurance policy;
- (b) ensure that its employees meet high standards of competency, ethics and integrity;
- (c) conduct its business in such a way as to treat customers fairly and ethically, commencing before the inception of the contract and through the point at which all obligations have been satisfied; and
- (d) ensure that actions relating to any insurance transaction consider the interest of customers.

PART II

Rules of Market Conduct for Insurers and Insurance Intermediaries

6. (1) An insurer or insurance intermediary shall implement measures that foster transparency in the operation of its business and in its business activities, through the presentation of all relevant facts to its customers.

Transparency and appropriate presentation of facts and details.

Information to be provided prior to entering into an insurance contract

(2) An insurer or insurance intermediary shall provide customers with sufficient and appropriate information, prior to the point of sale that will enable customers to make an informed decision before entering into a contract. This information shall be communicated in a manner that is understandable to the customer and shall include—

- (a) in the case of an insurance intermediary,
 - (i) its status (i.e. whether it is an insurance broker or insurance agent) and on whose behalf the insurance intermediary is acting (i.e., an insurer, a different set of insurers or the customer);
 - (ii) the name, location, contact details and regulatory status of the insurer or insurers for which the insurance intermediary acts or whose products are being offered; and
 - (iii) comparative information in relation to the costs, coverage and terms and conditions of the most

suitable options of products offered for a particular customer, when acting on behalf of more than one insurer;

- (b) the regulatory status of the insurer or insurance intermediary;
- (c) the characteristics of the product being offered, including—
 - (i) a description of the risk to be insured by the contract;
 - (ii) a description of any risks excluded under the contract;
 - (iii) conditions of the contract;
 - (iv) aims of the product;
 - (v) policy limits (including any deductible, copayment or coinsurance);
 - (vi) guarantees under the contract; and
 - (vii) any special exclusions;
- (d) the level of the premium, the consequences of late or non-payment, any grace periods, and provisions for premium reviews;
- (e) any charges additional to the premium, such as commissions, advisory fees, service fees, etc.;
- (f) any discounts in premium costs that are available;
- (g) an explanation of any onerous/special terms, including pro rata conditions of average and basis of contract clauses to be included in the policy;
- (h) in the case of property insurance—
 - (i) an explanation of underinsurance, an indication of the timeframe for which a property valuation is considered current and the consequences of renewing coverage based on a property valuation that is not considered current;
 - (ii) an explanation of the difference between replacement value and market value and how they apply to the product being offered to the customer;

- (iii) an explanation that the insurance policy is being determined based on the information within the appraisal report and the consequences that can occur where there are discrepancies and inconsistencies between the property description provided in the appraisal or any other supporting documentation and the actual property being insured;
- (i) an explanation as to how the product being offered is most suitable to meet the customer's requirements;
- (j) the manner and notice period in which the customer will be informed of changes to the terms and conditions of the policy, including alterations to fees, charges and discount rates;
- (k) the options available to policy-holders upon renewal or maturity date of the policy;
- (l) the consequences of early termination of an insurance policy or switching of an insurance policy; and
- (m) an explanation of any actions taken by a policy-holder that may cause the insurance policy to lapse, terminate or be deemed as terminated.

(3) An insurer or insurance intermediary shall inform its customers of their obligations and rights under a contract, prior to concluding the contract, including customers'—

- (a) obligation to truthfully disclose material facts, including in the case of property insurance, an accurate description of the property being insured;
- (b) obligations under the contract, upon entering into the contract and during its lifetime, as well as the consequences of non-compliance;
- (c) obligation to monitor coverage, including the need to review their coverage periodically to ensure it remains adequate;
- (d) right to cancel the contract and the conditions relating to their right to cancel, including the consequences of cancelling the contract;

- (e) right to claim benefits, including the conditions under which the policyholder can claim and the contact details to notify a claim, as well as their obligations when filing a claim; and
- (f) right to complain, including the arrangements for handling policyholders' complaints, which might include an insurer's or insurance intermediary's internal claims dispute mechanism or the existence of an independent dispute resolution mechanism.

(4) An insurer or insurance intermediary shall, where it is providing advice to a customer, make it clear to the customer that it is providing advice, and relay any fees to be charged for providing such advice.

Written documentation to be provided after entering into an insurance contract

(5) An insurer or insurance intermediary shall provide to its customer, at the time the customer enters into an insurance contract, a cover note summarising the terms and conditions of the customer's insurance contract.

(6) An insurer or insurance intermediary shall, provide to its customer, within 45 days of entering an insurance contract, with a copy of his, her or its insurance policy, terms and conditions and/or separate documentation, which include the following—

- (a) the name of the insurer, its legal form and its regulatory status;
- (b) in the case of a policy being sold via an insurance agent or insurance broker, the name of the insurance agent or insurance broker, its legal form and its regulatory status;
- (c) the type of insurance contract, the policy benefits and policy limits;
- (d) a description of the risks insured by the contract and of the excluded risks;
- (e) a description of any actions of the insured that would lapse, terminate or deem to terminate the insurance policy;
- (f) the premium for the risks covered, the due date and the period for which the premium is payable, the means of payment, the consequences of late or non-payment and provisions for premium reviews;

- (g) any charges additional to the premium, such as commissions, advisory fees, service fees, etc.;
- (h) the date when the insurance coverage commences and concludes;
- (i) prominent and clear information on significant and unusual exclusions or limitations, including:
 - (i) deferred payment periods;
 - (ii) excluded perils, conditions, losses or property;
 - (iii) exclusion of or limited coverage from providers (e.g. out-of-network providers, providers outside of country);
 - (iv) moratorium periods;
 - (v) limits on the amount of coverage;
 - (vi) limits on the period for which benefits will be paid;
 - (vii) restrictions on eligibility to claim, such as age, residence or employment; and
 - (viii) excesses;
- (j) prominent disclosure of any onerous or special terms, including pro rata conditions of average and basis of contract clauses included in the policy;
- (k) in the case of property insurance, signed declaration (by both the sales representative and customer) confirming that underinsurance and the consequences of underinsurance has been explained;
- (l) in the case of property insurance, an indication of timeframe for which a property valuation is considered current;
- (m) an indication as to whether the insurer will provide interim payments during claims processing, prior to the final settlement agreement;
- (n) the claims procedure, including the types of documents to be provided, the number of estimates required for filing a claim and the timeframe for notification of intent to file a claim and for filing a claim;

- (o) the name and contact details of the person responsible for claims handling;
- (p) the complaints procedure; and
- (q) the name and contact details of the person responsible for complaints handling.

(7) An insurer or insurance intermediary shall provide documentation required under subsection (6) to the customer at no cost.

[Explanatory Notes

- (i) *Insurers and insurance intermediaries should be so transparent in communicating with their customers in relation to an insurance contract being offered that it diminishes any misconceptions on the expectations of both the customer and the insurance and/or the insurance intermediary throughout the life of an insurance contract.*
- (ii) *Insurers and insurance intermediaries must ensure that all relevant information is communicated to a customer prior to entering an insurance contract, at the point a customer enters into an insurance contract and after the customer has entered into an insurance contract. Insurers and insurance intermediaries should not be reluctant to provide the information detailed in section 6 and should implement policies and procedures that ensure that the required information is communicated to customers and in the required format (e.g. written format), where applicable.*
- (iii) *Insurers and insurance intermediaries may use signed checklists, or other appropriate means, to confirm that all relevant information has been communicated to a customer, prior to entering an insurance contract and evidence the communication of such information whenever required. An insurer or insurance intermediary should also request customers to sign declarations, after being given the opportunity to read and understand them, that confirm that a representative of the insurer or insurance intermediary has communicated and explained the relevant matters that relate to the insurance contract.*
- (iv) *Advice goes beyond the provision of product information and relates specifically to the provision of a personalised recommendation on a product in relation to the disclosed needs of the customer. Where an insurer or insurance intermediary provides advice to a customer, it must ensure that this is disclosed to the customer, prior to providing such*

advice. Any fees associated with providing such advice must also be communicated prior to providing the advice.

- (v) *Where a customer has entered into an insurance contract, an insurer or insurance intermediary should have in place evidence that the relevant written documentation required under sub-sections (5) and (6) have been presented to the customer, including the date on which the documentation was presented to the customer. The insurer and insurance intermediary should similarly maintain records of any documentation that have been presented to any customer.*
- (vi) *A customer must be given a copy of its insurance policy, terms and conditions and/or separate documentation as required under subsection (6) for its record. An insurer or insurance intermediary should provide the required documentation without charging any fee.*

Examples of Misconduct

- (i) *The following are examples of misconduct in relation to the rule on transparency and appropriate presentation of facts and details:*
 - (a) *Failing to provide to provide a policyholder with a copy of his or her policy and terms and conditions, within 45 days of entering into the insurance contract.*
 - (b) *Failing to collect relevant information from a customer in order to make an informed decision on the type of policy that would be suitable.*
 - (c) *Failing to notify a customer of his or her right to claim under the contract and the procedure for filing a claim.*
 - (d) *Failing to notify a customer of his or her right to file a complaint under the contract and the procedure for filing a complaint.*
 - (e) *An insurance intermediary selling a product as if the insurance intermediary is the underwriter of the product.*
 - (f) *Issuing a homeowner's policy, where earthquake, windstorm and/or flood coverage is excluded under the policy, without indicating this to the customer or including this with a prominent display in the insurance contract.*
 - (g) *Issuing a homeowner's policy, without clarifying to the customer whether contents coverage is included under the policy.*
 - (h) *Issuing a health insurance policy to a customer who has disclosed a pre-existing medical condition, without indicating to the customer that the pre-existing medical condition is not covered under the policy.*

- (i) *Issuing a life insurance policy, without making it clear whether the policy is term life, whole life or another type of policy and explaining the coverage under the particular type of life insurance.*
 - (j) *Neglecting to notify customers of how claim settlement payments are calculated where the value of the property exceeds the value of coverage or the value of the property is below the value of the coverage.*
 - (k) *Noting inconsistencies between the property being insured and the property description provided and allowing the customer to enter into a contract based on the property description, without explaining the effect on insurance coverage of the property.*
 - (l) *Providing advice to a customer and charging a fee for such advice, without first notifying the customer that such advice, if provided, would attract a fee and what that fee would be.]*
-

Fair
advertisements
and promotions.

7. (1) An insurer or insurance intermediary shall promote and advertise products and services in a manner that is clear, fair and free of misleading, false or deceptive statements.

(2) In ensuring the adequacy and fairness of its promotional materials, an insurer or insurance intermediary shall—

- (a) conduct independent reviews of promotional materials that are intended for customers, to verify the clarity and accuracy of the information being promoted to customers;
- (b) in the case of an insurer, have measures in place to ensure that promotional materials prepared by insurance intermediaries promoting products on behalf of the insurer are accurate, clear and do not contain, inadvertently or otherwise, any inaccurate, misleading, deceptive or false information;
- (c) in the case of an insurance intermediary—
 - (i) have measures in place to satisfy itself that promotional material provided by insurers clearly and accurately reflect the conditions of the product, known to be true by the intermediary, in a manner that is not misleading, prior to presenting the material to customers; and
 - (ii) where developing its own advertising material, design its material in such a way that it—

- (aa) identifies itself as an insurance broker or insurance agent;
 - (ab) does not give the impression that the insurance intermediary is an insurer; and
 - (ac) clearly identifies the insurer underwriting the product being advertised;
- (d) immediately withdraw any advertisement, marketing or promotional material that it becomes aware contains information that is not accurate or clear or is misleading;
 - (e) notify the insurer or insurance intermediary responsible for developing the material, the Commission, and any other person that it knows has relied or is relying on information found to be inaccurate, false or misleading, as soon as reasonably practicable; and
 - (f) assign senior management personnel that have relevant professional competence and knowledge of the product(s) or service(s) being advertised, with the responsibility of approving any marketing, advertising or promotional material.

(3) An insurer or insurance intermediary shall ensure that the information provided in an advertisement or promotion —

- (a) is in plain language and easily understandable to the ordinary person;
- (b) accurately identifies the insurer or provider of the product;
- (c) is consistent with the coverage offered;
- (d) is consistent with the result reasonably expected to be achieved by the customers;
- (e) states prominently the basis for any claimed benefits and any significant limitations; and
- (f) does not hide or seek to hide, diminish or obscure important statements or warnings.

(4) Where an advertisement or promotion only specifies some of the terms and conditions attached to a product or service, but excludes others, the advertisement shall state that fact and provide details of where all the terms and conditions may be obtained.

(5) Where no details of the terms and conditions are given, the advertisement shall contain information as to how all such terms and conditions may be obtained.

[Explanatory Notes

(i) *Section 7(2)(a) of the Insurance Conduct Code requires promotional materials to be reviewed independently for clarity and accuracy of information. This independent review is not required to be conducted by a third-party outside of the insurer or insurance intermediary, but can be conducted by a qualified and experienced employee within the organisation that was not involved in the development of the promotional material.*

Examples of Misconduct

(i) *The following are examples of misconduct in relation to the rule on fair advertisements and promotions:*

(a) *Intentionally creating an advertisement with false information or which skews the terms of the contract to entice customers.*

(b) *Assigning junior level staff with the responsibility of approving promotional material.*

(c) *Neglecting to implement review measures to have the accuracy and adequacy of promotional material assessed.*

(d) *Failing to immediately withdraw a promotion where it has been discovered that false and misleading statements were disclosed.]*

Professional
competence.

8. (1) An insurer or insurance intermediary shall ensure that its sales representatives are trained and equipped to adequately advise customers on the features and characteristics of the products they sell or introduce or provide information about.

(2) A representative of an insurer or insurance intermediary must be capable of accurately explaining concepts relevant to a customer's insurance contract in a manner that is clear and comprehensible to the customer.

(3) Where an insurer or insurance intermediary is providing advice, the insurer or insurance intermediary shall seek information from its customers that is appropriate for assessing customers' insurance demands and needs and consider the following before giving advice—

(a) the knowledge and experience of the customer;

- (b) the customer's needs, priorities and circumstances;
- (c) the customer's ability to afford the product; and
- (d) the customer's risk profile.

(4) An insurer or insurance intermediary shall provide training that allows its sales representatives and any employees providing advice to—

- (a) keep abreast of market trends, economic conditions, innovations and modifications made to products and services;
- (b) maintain an appropriate level of knowledge about their industry segment, including the characteristics and risks of the products and services offered;
- (c) know the applicable legal and regulatory requirements;
- (d) know the requirements for the communication of information regarding the products and services and for appropriate disclosure of any situation liable to compromise the impartiality of the advice given or limit such advice;
- (e) be familiar with the documentation regarding the products and services; and
- (f) answer reasonably foreseeable questions about the products and services being offered.

(5) An insurer or insurance intermediary shall ensure that persons involved in the processing of claims have relevant competencies to fairly assess a claim and communicate the claim settlement procedures to a claimant.

[Examples of Misconduct

- (i) *The following are examples of misconduct in relation to the rule on professional competence:*
 - (a) *Allowing sales representatives that do not understand the insurance products and services being offered to sell products to customers with limited insurance knowledge.*
 - (b) *Insurers failing to develop, maintain and implement policies and procedures that employees must follow in the processing of claims.*

- (c) *Explaining the terms and conditions of a customer's insurance contract with technical or legal jargon that the customer does not understand.*
 - (d) *Neglecting to take into account the customer's wants and needs in providing product information to the customer.*
 - (e) *Failure to request sufficient information from a customer to understand his or her personal circumstances in order to issue the best product for that customer.*
 - (f) *Allowing employees without relevant competence to advise customers on selecting a policy.*
 - (g) *Advising a customer to select a particular insurance product based solely on the commissions that will be received for the sale of that product.*
 - (h) *Neglecting to point out general and specific conditions and exceptions in a customer's policy, to the customer.]*
-

Confidentiality and appropriate use of information.

9. (1) An insurer or insurance intermediary shall maintain the confidentiality of customers' personal information obtained in the course of contractual, pre-contractual and post-contractual dealings.

(2) An insurer or insurance intermediary shall—

- (a) establish, maintain and implement policies and procedures for the protection of customers' personal information (including financial, medical and other forms of private information);
- (b) implement appropriate physical, administrative and technical safeguards for the collection, storage, processing and disclosure of customers' personal information and to prevent unauthorised access to such information;
- (c) require employees and representatives to maintain confidentiality of customers' personal information on an ongoing basis;
- (d) take disciplinary action against employees and representatives for willful or negligent breach of confidentiality requirements;
- (e) never disclose a customer's personal information to a third party unless this is disclosed for a legitimate business

purpose (eg. claims management, product development, product pricing, etc.), is disclosed with the consent of the customer, or is disclosed by virtue of law;

- (f) inform customers—
 - (i) on its (insurer’s or insurance intermediary’s) requirements to maintain confidentiality unless information shall be disclosed for a legitimate business purpose;
 - (ii) on the types of information that might be disclosed;
 - (iii) to whom information might be disclosed; and
 - (iv) on the circumstances under which information might be disclosed;
- (g) promptly notify a customer where there has been a breach in protecting the customer’s information;
- (h) notify the Commission, within seven (7) days, where there has been a suspected or actual breach in securing customers’ personal information or the misuse of information and provide an explanation of the steps taken, or to be taken, to address the failure;
- (i) assess on an ongoing basis, the possibility of new risks that could threaten the privacy of customers’ personal information (e.g. cyber-attacks) and have appropriate measures in place to mitigate against such risks; and
- (j) have policies and procedures in place to ensure that the board and senior management are aware of challenges and breaches pertaining to the protection of customers’ personal information.

[Explanatory Notes

- (i) *Given the importance of confidentiality, insurers and insurance intermediaries should ensure that its employees and/or representatives undergo appropriate training on confidentiality and handling customers’ personal information.*
- (ii) *As a measure to ensure confidentiality and proper use of information, employees and representatives should be bound by a written confidentiality undertaking which clearly outlines the insurer’s or insurance intermediary’s policy and procedures for handling and keeping*

customer's personal information confidential. Any disclosures of personal information made to a third party for legitimate business purposes, should also be subject to confidentiality agreements.

- (iii) *Employees, representatives and third parties to which information has been disclosed, should be required to keep customers' personal information confidential beyond the termination of an insurance contract. This requirement to maintain confidentiality should also extend beyond cessation of employment, agreement or arrangement with the insurer or insurance intermediary.*

Examples of Misconduct

- (i) *The following are examples of misconduct in relation to the rule on confidentiality and the appropriate use of information:*
 - (a) *Providing a copy of a client's insurance policy or details of the policy to other customers as an example of an insurance product being offered.*
 - (b) *Failing to address a detected data breach that exposes customers' personal information.*
 - (c) *Failing to take any disciplinary actions against an employee who has been discovered to be disclosing customers' personal information to individuals without any legitimate business reason.*
 - (d) *Giving marketing companies unrestricted access to customers' personal information.*
 - (e) *Senior management promoting a culture that has no regard to the maintenance of confidentiality.]*

Prompt and fair processing of claims.

-
- 10.** (1) An insurer or insurance intermediary shall—
 - (a) maintain policies and procedures on the claims handling and claims dispute resolution processes;
 - (b) maintain written documentation on their claims handling procedures, which includes all steps involved beginning from the claim being raised to the conclusion of the claim;
 - (c) inform claimants, in writing, of the procedures, formalities and common timeframes for claims settlement (including the documentation that is required in order to process a claim);

- (d) not impose arbitrary and unreasonable time limits for reporting and filing claims and shall allow for the extension of established time limits in periods of natural disasters;
- (e) acknowledge receipt of a claim within seven (7) days of its receipt, communicate whether any information or documentation required to complete the claim is outstanding and identify the claimant's point of contact at the insurer or insurance intermediary with respect to their claim;
- (f) inform each claimant on the progress of their claim within fourteen (14) day intervals, commencing after acknowledging receipt of the claim, including details of any actions being taken to resolve the claim;
- (g) notify a claimant where it has appointed a loss adjuster to investigate and negotiate the settlement of the claimant's claim on its behalf and explain the loss adjuster's role in relation to the claimant's claim;
- (h) indicate to the claimant, within thirty (30) days of receipt of a completed claim, whether the claim is being settled, denied, or investigated, and in the event that a claim is being investigated, the envisaged time frame in which such investigation is likely to take place, and the reason(s) for the said investigation;
- (i) where an insurer or insurance intermediary has indicated to a claimant that its claim is being settled, provision of payment to the claimant within seven (7) days of the indication being provided;
- (j) illustrate and explain clear and plain language to claimants, claim-determinative factors (for example depreciations, discounting, salvage, Value at Risk, the concept of average (underinsurance) or negligence), based on the terms and conditions of the insurance contract and provide a written breakdown accordingly;
- (k) in the instance that a claim is denied, explain to the claimant, in terms that are easy for the claimant to understand and in writing, the reason that the claim has been denied, citing relevant section(s) within the terms of the insurance contract and disclosing any subsequent action

that the claimant can take in order to claim any benefits under the policy;

- (l) not require a claimant to provide more than two (2) estimates from a professional qualified to repair loss or damage;
- (m) not directly contract a professional to repair loss or damage to a claimant's property, unless the claimant agrees and explicitly consents to this in writing; and
- (n) not issue a settlement payment in the name of a third party that is not covered under the insurance contract, unless the insured provides explicit and written consent to do so.

(2) An insurer or insurance intermediary shall inform customers of the outcome of a claim assessment, and inform the policyholders of their options with respect to the outcome.

(3) The Commission may, during an exceptional circumstances as defined under the Financial Services (Exceptional Circumstances) Act, 2020, extend the timeframes within which an insurer or insurance intermediary shall undertake actions required under subsection (1) (e), (f) and (h), by issuing a notice on its Internet site.

[Examples of Misconduct

- (i) *The following are examples of misconduct in relation to the rule on fair and prompt claim processing:*
 - (a) *Failure to acknowledge receipt of a customer's claim or failure to acknowledge receipt within 7 days.*
 - (b) *Requesting a claimant to provide three (3) estimates, where the terms and conditions only require one (1) estimate.*
 - (c) *Denying a claimant's claim without explaining the reason for the denial, based on the terms and conditions of the insurance contract.*
 - (d) *Failure to train client facing employees on the claim settlement process.*
 - (e) *In instances where the claimant has options in relation to a settlement (e.g. a written-off vehicle), the insurer prepares a settlement payment for the claimant without discussing the options with the claimant.*

- (f) *Refusing to provide the claimant with a breakdown of settlement calculation.*
 - (g) *Selecting a third-party professional to repair damage and issuing payment to the professional without receiving consent from the insured.*
 - (h) *Failure to communicate with a claimant on the status of a claim for an extended period of time, after numerous follow-up requests from the claimant.]*
-

Prompt consideration of customer complaints.

- 11.** (1) An insurer or insurance intermediary shall—
- (a) establish policies and procedures to promptly and diligently examine complaints received in a fair and equitable manner;
 - (b) maintain a complaints register, in accordance with section 69A of the Regulatory Code, which includes the following with respect to each complaint;
 - (i) the name of the complainant;
 - (ii) the date on which the complaint was filed;
 - (iii) a summary description of the complaint;
 - (iv) the measures undertaken or being undertaken to resolve the complaints; and
 - (v) the date on which the complaint was resolved;
 - (c) make information on the complaints filing and handling process readily available to their customers;
 - (d) establish a service standard for the resolution of customer complaints and conduct internal assessment against this standard;
 - (e) acknowledge receipt of the complaint within seven (7) days of receipt, and identify the complainant’s point of contact with respect to their complaints;
 - (f) inform complainants on the progress of their complaints within fourteen (14) day intervals, including details of any actions being taken to resolve the complaints;

- (g) advise the complainant in writing of the outcome of the assessment promptly following the completion of the assessment of the complaint, and explain the terms of any resolutions being offered or the reasons why the offer of a resolution has not been provided; and
- (h) have processes for the escalation to senior management and/or directors in the event that the matter is not resolved to the complainant's satisfaction.

(2) An insurer shall analyse complaints received against insurance intermediaries that distribute products on that insurer's behalf, in a manner that enables the insurer to assess the complete customer experience and identify any issues that need to be addressed, with respect to the insurance intermediaries.

[Examples of Misconduct

- (i) *The following are examples of misconduct in relation to the rule on prompt consideration of customer complaints:*
 - (a) *Failure to acknowledge receipt of a customer's complaint or failure to acknowledge receipt of a complaint within 7 days.*
 - (b) *Failure to advise a complainant of the outcome of his or her complaint.*
 - (c) *Failure to maintain a log of complaints received with sufficient details on the complaints and the measures undertaken to resolve the complaints.]*

Management of conflict of interest situations.

12. (1) An insurer or insurance intermediary shall implement policies and procedures that prevent inappropriate use of employees' roles for personal gain or advantage to employees or employees' family members.

- (2) Policies and procedures shall—
 - (a) ensure that employee performance management and reward programmes do not encourage behaviour that leads to the unfair treatment of customers;
 - (b) require employees to disclose any conflicts of interest to customers, thus allowing the customer to determine whether he or she wishes to proceed with the advice being given or the policy being sold; and

- (c) have consequences in place for employees who fail to manage conflicts of interest appropriately, that lead to unfair treatment of customers.

[Examples of Misconduct

- (i) *The following are examples of misconduct in relation to the rule on managing conflicts of interest:*
 - (a) *An insurance intermediary presenting a product option from a particular insurer to a customer solely based on the level of commission that is provided from this particular insurer.*
 - (b) *Selling products to customers that are not in the customers' best interest, in order to meet a sales goal.]*
-

Policy Servicing.

13. (1) An insurer or insurance intermediary shall service insurance policies appropriately to the point at which all obligations under the policy have been satisfied in accordance with the contractually agreed terms and legal provisions.

(2) An insurer or insurance intermediary shall disclose to its policyholders on an ongoing and timely basis, information on any changes in the policy terms and conditions during the life of the contract, including the following—

- (a) any change in the name and/or address of the insurer;
- (b) any changes to the main features of the insurance risks covered, in particular details on the nature, scope and due dates of benefits payable by the insurer (including when substituting insurance contracts), to which the policyholder must agree;
- (c) any changes to the cost structure, if applicable, stating the total amount payable and any possible additional taxes, fees and costs not levied via or charged by the insurer, as well as any costs incurred by the policyholder, to which the policyholder must agree;
- (d) where applicable, information to the policyholder about the need to report depreciation/appreciation, and ensuring the property is adequately valued on an ongoing basis; and
- (e) where applicable, prior notice to a policyholder where the property valuation held with the insurer or insurance intermediary is no longer considered current.

(3) An insurer or insurance intermediary shall, at least 30 days prior to the expiration of a policy, notify a policyholder of the following—

- (a) the requirements (*if any*) as to the re-evaluation of the property insured;
- (b) whether there will be any standard percentage incremental increase in cover to take into account an increase in the cost of living, increased cost of repair or replacement; and
- (c) the level of premium for the successive year if the policy is renewed using such a formula.

(4) Where additional copies of the policy and/or terms of conditions are requested by a policyholder during the life of the contract, an insurer or insurance intermediary shall provide a copy to the policyholder, whether by physical or electronic means.

(5) An insurer or insurance intermediary shall, in periods of natural disaster, provide any requesting policy-holder with an additional copy of its policy, terms and conditions and/or separate documentation at no cost to the policy-holder.

[Explanatory Notes

- (i) *The requirement for insurers and insurance intermediaries to be transparent in communicating with its customers extends throughout the lifetime of the insurance contract. As such, insurers and insurance intermediaries should have mechanisms in place to communicate with its customers in a timely manner on all relevant changes to the terms and conditions of its insurance contract and provide information on the requirements for renewal of an insurance contract.*
- (ii) *Insurers and insurance intermediaries should maintain records of information that have been communicated to its customers, along with evidence of the dates that the information was communicated to customers.*

Examples of Misconduct

- (i) *The following are examples of misconduct in relation to the rule on servicing contracts:*

- (a) *Neglecting to inform policyholders of changes in premiums.*
 - (b) *Neglecting to inform policyholders where a policy no longer meets the customers' needs, based on information the policyholder disclosed to the insurer or insurance intermediary.*
 - (c) *Neglecting to inform policyholders where a customer's property valuation is outdated and may lead to underinsurance.]*
-

Insurers' engagement with insurance intermediaries.

14. (1) An insurer shall—

- (a) only conduct direct insurance business with insurance intermediaries licensed by the Commission;
- (b) ensure that the insurance intermediaries with whom they conduct business have sufficient knowledge and expertise to conduct business on behalf of the insurer;
- (c) report immediately to the Commission, any significant issue that is brought to the insurer's attention on any of its insurance intermediaries; and
- (d) have written agreements in place with insurance intermediaries to establish the business dealings with each other, clarify their respective roles and responsibilities and promote the fair treatment of customers.

(2) An insurance intermediary that is engaged by an insurer shall immediately report to the Commission, any significant issue relating to that insurer that it has become aware of or is brought to the insurance intermediary's attention.

(3) Written agreements between the insurer and insurance intermediary should cover responsibilities of roles in relation to the following (as applicable)—

- (a) product marketing, advertisements and promotions;
- (b) the provision of pre-contractual and point of sale information to customers;
- (c) post-sale policy servicing;
- (d) claims notification and handling;
- (e) complaints notification and handling;

- (f) management of information and other documentation required by the insurer;
- (g) remedial measures; and
- (h) any other matters related to the relationship with customers.

(4) An insurer shall provide relevant information to insurance intermediaries to ensure that they understand the target market and characteristics of products being sold, in order to reduce the risk of mis-selling by insurance intermediaries.

(5) Where an insurer uses insurance intermediaries for the distribution of insurance products, the insurer shall be satisfied that the insurance intermediaries involved are providing timely, clear and adequate pre-contractual and contractual information to customers.

[Examples of Misconduct

- (i) *The following are examples of misconduct in relation to insurers' engagement with insurance intermediaries:*
 - (a) *Engaging insurance intermediaries that have not been licensed by the Commission.*
 - (b) *Engaging insurance intermediaries without professional competence in the insurance business.*
 - (c) *Neglecting to establish agreements where the insurance intermediary acts on behalf of the insurer.]*
-

Insurers' engagement with loss adjusters.

- 15.** (1) Where an insurer engages a loss adjuster to investigate and/or negotiate the settlement of claims submitted by its client, the insurer shall—
- (a) ensure that the loss adjusters with whom it conducts business have sufficient knowledge and expertise to investigate and/or negotiate the settlement of claims on behalf of the insurer;
 - (b) report immediately to the Commission, any significant issue relating to its loss adjusters that it has become aware of or is brought to the insurer's attention; and
 - (c) have written agreements in place with loss adjusters that—
 - (i) establish the business dealings with each other;

- (ii) clarify their respective roles and responsibilities;
- (iii) promote the fair treatment of customers;
- (iv) require the loss adjuster to investigate and negotiate the settlement of claims in a manner that is consistent with the insurer's policies and procedures on claims processing.

(2) An insurer shall have appropriate monitoring mechanisms in place to review and confirm that its loss adjusters investigate and negotiate the settlement of claims in a manner that is consistent with the insurer's policies and procedures on claims processing.

(3) An insurer shall not establish commission structures with loss adjusters that compensate loss adjusters based on creating disadvantages to claimants.

[Examples of Misconduct

(i) *The following are examples of misconduct in relation to insurers' engagement with loss adjusters:*

- (a) *Engaging a loss adjuster that has no experience in investigating or negotiating the settlement of claims.*
 - (b) *Allowing loss adjusters to investigate and negotiate the settlement of a claim without any review as to whether actions undertaken by the loss adjusters aligned with the insurer's policies and procedures.*
 - (c) *Establishing a commission structure that rewards loss adjusters for persuading claimants to settle for a significantly lower amount that can be given under an insurance contract.]*
-

PART III

Rules of Market Conduct for Loss Adjusters

16. For the purposes of this Part,

“client” means the person or entity on whose behalf the loss adjuster is investigating and negotiating the settlement of a claim.

Interpretation for this Part.

17. (1) A loss adjuster shall not act on behalf of both the insurer and the insured in relation to any claim being investigated or settlement being negotiated.

Management of conflict of interest situations.

(2) A loss adjuster shall notify its clients of any interest in property that is the subject to any claim being investigated or settlement being negotiated.

[Examples of Misconduct

- (i) *The following are examples of misconduct in relation to the management of conflict of interest situations:*
 - (a) *Acting on behalf of and receiving payment from both the insurer and the insured in relation to the same claim.*
 - (b) *Investigating or negotiating the settlement of a claim related to a property in which the loss adjuster has some ownership.*

18. (1) Where a loss adjuster is acting on behalf of an insurer and interacts directly with a claimant, the loss adjuster shall notify the claimant that it is acting on behalf of the insurer and provide an explanation of its role in investigating and settling the claim.

Disclosure of information.

(2) Where a loss adjuster is acting on behalf of a claimant, it shall, prior to acting on behalf of a claimant, provide the claimant with sufficient explanation to understand the process of investigating and negotiating the settlement of the claim, the services being rendered by the loss adjuster and the proposed fees associated with providing such services.

(3) A loss adjuster shall not make any representations to its clients or claimants that are false, misleading or likely to be misleading.

[Examples of Misconduct

- (i) *The following are examples of misconduct in relation to disclosure of information:*
 - (a) *When acting on behalf of an insurer, interacting with a claimant, without disclosing to the claimant that you are providing services on behalf of and are being compensated by the insurer.*
 - (b) *Acting on behalf of claimant, without first informing the claimant of the fees associated with the provision of its services.*
 - (c) *Making false representations to a claimant on the losses that can be claimed under an insurance contract.*

- (d) *Providing insurers with falsified quantity surveyor and construction reports and quotations.*
-

Confidentiality and appropriate use of information.

19. A loss adjuster shall respect the confidentiality of all personal information obtained about a client or a claimant and shall not disclose such information unless this is disclosed for a legitimate business purpose, disclosed with the consent of the client or claimant, or is disclosed by virtue of law.

[Examples of Misconduct

- (i) *The following are examples of misconduct in relation to the rule on confidentiality and the appropriate use of information:*
- (a) *Providing a prospective client with copies of documentation that relates to negotiating the settlement of a client's claim, as an example of an insurance product being offered.*
 - (b) *Providing an insurer with claim settlement information and documentation with respect to a claimant that is not a policyholder with that insurer.]*
-

Prompt and fair investigation and negotiation of claims.

- 20.** (1) A loss adjuster shall—
- (a) maintain written procedures, which includes all steps involved in the investigation of a claim and negotiating the settlement of a claim; and
 - (b) inform its clients on the progress of each claim it is investigating or negotiating settlement within fourteen (14) day intervals.
- (2) Where a loss adjuster is acting on behalf of a claimant, it shall report to the claimant on its actions undertaken in investigating and negotiating the settlement of each claim, along with a chronology of such events.
-

[Examples of Misconduct

- (i) *The following are examples of misconduct in relation to the rule on prompt and fair investigation and negotiation of claims:*
- (a) *Refusing to provide a client with a status update, when the client has made numerous follow-up requests.*

(b) *Providing a report to the claimant that only details the settlement negotiated and does not provide details of any actions undertaken by the loss adjuster.]*

Issued by the Financial Services Commission this 7th day of April, 2021.

(Sgd.) Kenneth Baker
Managing Director/CEO
Financial Services Commission