



BERMUDA MONETARY AUTHORITY

THE INSURANCE MARKETPLACE PROVIDER CODE OF CONDUCT

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THE INSURANCE MARKETPLACE PROVIDER CODE OF CONDUCT

Introduction

1. This document outlines the Bermuda Monetary Authority's (the Authority) Insurance Marketplace Provider Code of Conduct (the Code). The purpose of the Code is to assist the Authority in providing appropriate, effective and efficient supervision and regulation of Insurance Marketplace Providers. For the purpose of the Code, Insurance Marketplace Provider has the meaning given in section 1(1) of the Insurance Act 1978 (the Act), as amended in 2019.
2. The Insurance Marketplace Provider can play a vital role in facilitating the purchase of insurance and providing services and relevant information to insurance companies and prospective policyholders that complement the insurance placement process.

Authorisation

3. The Authority is issuing this Code pursuant to the powers under section 2BA of the Act.

The Code establishes duties, requirements and standards to be complied with by the registered Insurance Marketplace Provider, including the procedures and practices to be observed by such persons. In assessing whether the Insurance Marketplace Provider is conducting its business in a sound and prudent manner, the Authority will have regard for the application of the provisions of the Code taking into account its nature, scale and complexity, and the Authority's prudential objectives.

Proportionality principle

4. The Authority appreciates that Insurance Marketplace Providers have varying risk profiles depending on their operating model, services offered and the nature, scale, and complexity of their business. Those with higher risk profiles require a more comprehensive governance, operational model and control, or risk management framework to ensure they conduct business in a sound and prudent manner.
5. The Authority will assess compliance with the Code in a proportionate manner relative to an Insurance Marketplace Provider's nature, scale and complexity. These factors will be considered as a whole, rather than individually (e.g. an Insurance Marketplace Provider could be relatively small in scale, but carry out extremely complex business and, therefore, would still be required to maintain appropriate internal control and/or risk management framework):
 - a) Nature includes the relationship between the Insurance Marketplace Provider and the clients, and the characteristics of the services provided
 - b) Scale includes size aspects such as the volume of business conducted in conjunction with materiality considerations

- c) Complexity includes organisational structures and ease of information transmission
- 6. The proportionality principle discussed above is applicable to all sections of the Code regardless of whether the principle is explicitly mentioned.

Controllers and officers to be fit and proper persons

- 7. Every person who is, or is to be, a controller or officer of an Insurance Marketplace Provider must meet the fit and proper person criteria as set out in the Act. Controllers and officers must have the relevant knowledge and experience, sufficient skills and capability, and soundness of judgment to undertake and fulfil their particular duties and responsibilities. The controllers and officers must also be of high integrity. In considering whether to appoint a person to an officer or director role, an Insurance Marketplace Provider must take into consideration the fitness of that person to the specific duties that they are being appointed to perform. In that regard, the Insurance Marketplace Provider should take into consideration the person's qualifications and references, their previous experience with similar responsibilities and their record of achievement and performance.
- 8. Controllers and officers must carry out their duties in a prudent manner, avoiding actions, a failure to act, or apathy toward a duty that would cause damage to the Insurance Marketplace Provider's reputation, damage to their clients or threaten the public interest. The Insurance Marketplace Provider must ensure that there are effective controls in place to mitigate reputational damage and threats to the public interest.
- 9. The Insurance Marketplace Provider must notify the Authority immediately if it becomes aware of any material concerns regarding the appropriateness or professionalism of a controller or officer. Additionally, the Insurance Marketplace Provider must advise the Authority of remediation actions, either planned or taken, following an issue notified involving a controller or officer.

Corporate governance

- 10. The Insurance Marketplace Provider must implement a documented corporate governance framework, which includes policies, processes and controls that the Authority considers appropriate given the nature, scale, complexity and risk profile of the Insurance Marketplace Provider.
- 11. The Insurance Marketplace Provider must appoint qualified individuals to its board of directors (board) who have the appropriate experience and expertise to be able to provide informed and sound judgment, and decision-making to the governance of the Insurance Marketplace Provider.

B. PRINCIPLES OF INSURANCE MARKETPLACE PROVIDER BUSINESS

Business to be conducted in a prudent manner

12. It is the responsibility of the board and senior management of an Insurance Marketplace Provider to ensure that their business is conducted in a sound and prudent manner. Board members and senior management must arrange for the identification and documentation of the fundamental risks in their business, and ensure the establishment of an appropriate operational and control environment. More specifically, the Insurance Marketplace Provider's board must be able to demonstrate that the controls and operational model are appropriate and effective for the nature, scale and complexity of its business, including the following:
 - a) Governance, management structures and operation, such as the composition, level and type of control exercised by the board
 - b) Strategy, objectives and planning arrangements
 - c) Controls, policies and procedures
 - d) Pre-vetting processes and policies designed to address the risks inherent in introducing new entities and individuals to Bermuda's corporate environment
 - e) Accounting policies
 - f) Staff selection, vetting and training
 - g) Appropriate physical presence in Bermuda for Insurance Marketplace Providers
 - h) Suitability of the Insurance Marketplace Provider platform, including cyber security and technology
13. The board of the Insurance Marketplace Provider is ultimately responsible for its overall risk and control framework. The board is also responsible for ensuring that the Insurance Marketplace Provider has developed and implemented effective risk-related internal controls. Effectiveness and appropriateness assessments of the risk and control framework should be performed periodically by the senior management and the board.
14. An Insurance Marketplace Provider must have an adequate number of staff who are trained and competent in discharging their duties effectively. It should ensure that the responsibilities and authority of each staff member are clearly defined and appropriate for his or her qualifications and experience, and that staff receive the necessary training appropriate for their roles. Staff should possess appropriate knowledge and skill in insurance relevant to the role they perform and services that they provide. The Insurance Marketplace Provider must ensure that it has in place systems, controls, documented policies and procedures, to ensure employees perform their duties in a diligent and proper manner, and client transactions are processed in accordance with the client agreement. It is important that staff understand and comply with the established policies and procedures, including those dealing with new client or business onboarding and financial transactions. In

particular, staff need to identify suspicious financial transactions on an ongoing basis.

15. The Insurance Marketplace Provider must have appropriate policies and procedures to prevent and detect fraud and criminal activity, and to ensure compliance with all legal and regulatory requirements for Sanctions, and where applicable, the anti-money laundering and anti-terrorist financing regulations. The Insurance Marketplace Provider must comply with applicable laws both locally and in any foreign jurisdictions in which the Insurance Marketplace Provider operates.
16. The Insurance Marketplace Provider must ensure prudential filings and regulatory applications are timely and completed accurately. They are also expected to be proactive and use best endeavours in dealings with clients, counterparties, regulators and government.
17. A significant number of risks can potentially affect the Insurance Marketplace Provider's operations. Insurance Marketplace Providers are therefore required to hold adequate insurance coverage including professional liability insurance appropriate on a proportional basis to the nature and scale of its operations, and the risks it faces as it conducts its business.
18. In judging the type and level of insurance protection to purchase, the Insurance Marketplace Provider must consider the nature, scale and complexity of the insurance cover required. It should also consider the ability of the insurance to provide adequate protection for legal actions or damages to ensure the Insurance Marketplace Provider can continue to trade in the event of a lawsuit or legal action for damages. The Insurance Marketplace Provider's board and management must assess the level of risk that an Insurance Marketplace Provider faces and purchase insurance coverage appropriate for the business.

Adequate accounting, record keeping systems, and reporting requirements

19. An Insurance Marketplace Provider shall ensure that it has adequate financial and Insurance Marketplace Provider systems and controls, and books and records that are maintained, and subject to an appropriate control framework.
20. The Insurance Marketplace Provider must keep and preserve appropriate records in Bermuda that will at least include such records that are appropriate for its operations and functions, client records, insurance transactions and financial records, as required by any applicable laws.
21. The Insurance Marketplace Provider must have a record keeping system that will enable the provision of relevant information to persons entitled to receive the information on a timely basis. This should include the identity of shareholders, directors and officers. In addition, records of account and client records must be maintained in accordance with best practice and the applicable laws.

Client relationships

22. The Insurance Marketplace Provider must observe high standards of integrity and fair dealing in the conduct of its business.
23. The Insurance Marketplace Provider is required to have sufficient safeguards in place to protect client loss arising from failure in the Insurance Marketplace Provider's systems, staff or other operational risks. Where an Insurance Marketplace Provider holds client funds, such safeguards shall include having adequate systems, controls, policies and procedures in place for the safeguarding of "client monies" and separate client trust or other accounts distinguishable from the Insurance Marketplace Provider's own bank accounts.
24. The Insurance Marketplace Provider must act with due skill, care and diligence in the conduct of its business, and in its dealings with clients, policyholders, potential policyholders and insurers.
25. The Insurance Marketplace Provider must have a documented fee structure that must be disclosed to each client when it provides Insurance Marketplace Provider services. This also applies to any subsequent changes to fees under such an agreement and includes ensuring that adequate notice is given to the client before any change in the service or fee structure is introduced.
26. To ensure clients are dealt with fairly and are kept informed, the Insurance Marketplace Provider should agree on terms of business with each prospective client. These terms should be provided in writing to the client in the form of an agreement, including evidence of the respective client's agreement to said terms and conditions. That agreement should include, but not be limited to, the following provisions:
 - a) A clear description of the services to be provided, fees to be charged and the manner or payment arrangement by which fees are expected to be deducted or paid
 - b) A description of the manner how and the persons who can make requests for actions and/or give directions under the agreement
 - c) The terms under which the agreement can be terminated and the consequences of termination
 - d) A statement that the Insurance Marketplace Provider is licenced by the Authority, including the type of license issued
27. Information relating to clients or insurers must be kept confidential. The Insurance Marketplace Provider shall document and implement controls, policies and procedures that are designed to ensure that such information is kept confidential and secure. These policies and procedures shall include:
 - a) Employees' undertakings to maintain confidentiality, as part of their contracts of employment
 - b) Employees' access to information and the level of access

- c) Mechanisms that effectively restrict access to confidential information to appropriate employees
- d) Systems that are designed to safeguard the integrity of any electronic record or transaction recording system
- e) An appropriate cyber risk management program, including regular penetration testing and regular staff cyber risk training awareness
- f) An appropriate retention policy prescribing how long client records should be kept once the client relationship is terminated

Disclosures

28. The Insurance Marketplace Provider shall provide clients with adequate information about the Insurance Marketplace Provider's business, including their registered business address and telephone number, and all facts necessary for its clients to make an informed decision. This may include any additional disclosure the Authority determines reasonably necessary for the protection of clients.

Complaint handling

29. The Insurance Marketplace Provider shall have and document a complaint handling procedure. The complaint handling procedure shall be communicated to every policyholder, potential policyholder, client or insurer to use the Insurance Marketplace Provider platform. The procedure shall include at a minimum the processes for:
- a) Making a complaint
 - b) Handling complaints in a fair, timely and appropriate manner
 - c) Maintaining independence and resolving conflicts when dealing with complaints
 - d) Acknowledging receipt of complaints
 - e) Maintaining a complaint register containing details of complaints received and how they have been dealt with and/or resolved

Business continuity and disaster recovery

30. The Insurance Marketplace Provider must document a business continuity and disaster recovery plan that addresses all of its key business processes and critical business functions. The effectiveness of the plan should be tested regularly.

Conflicts of interest

31. The Insurance Marketplace Provider must have documented policies and procedures for dealing with conflicts of interest and where possible, avoid them. Where a conflict arises, the Insurance Marketplace Provider shall disclose it to the client and decline to act if the conflict cannot be satisfactorily mitigated.

Fraud

32. The Insurance Marketplace Provider shall have documented policies and procedures in place for dealing with fraud, including the necessary measures to prevent, detect and remedy fraud.

Client due diligence

33. The Insurance Marketplace Provider that deals with direct long-term business must have procedures in place to ensure that client due diligence is carried out before a decision is made to act for any new client. At a minimum, Insurance Marketplace Providers need to be able to comply with the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 and the Anti-Terrorism (Financial and Other Measures) Act 2004, as they are applicable to the Insurance Marketplace Provider's business and international sanctions, together with any other relevant legislation that may come into force from time to time.
34. The Insurance Marketplace Provider must take all reasonable efforts to keep up to date with any international sanctions and legal requirements for which Bermuda is bound.

Outsourcing

35. Where the Insurance Marketplace Provider outsources any of its services or functions, it must perform due diligence checks on the outsourced service provider to ensure that outsourced operations are performed to the same level as if the work had been performed in-house, and comply with Bermuda's legal and regulatory requirements.
36. The Insurance Marketplace Provider's board retains the ultimate responsibility for the appropriate delivery of any function or service that is outsourced.

Reputation of Bermuda

37. Insurance Marketplace Providers should not bring the reputation of Bermuda into disrepute. The matter will need to be evaluated for each Insurance Marketplace Provider on a case-by-case basis. This is an area where a risk-based approach may be justified; however, it needs to be emphasised the Authority would view any failure in this obligation with the utmost gravity.
38. The board of the Insurance Marketplace Provider must develop and implement documented policies and procedures to address these obligations for the mitigation of reputational risk, sanctions, money laundering and terrorist financing risk etc.
39. The board of the Insurance Marketplace Provider is ultimately responsible for its overall risk management framework. The board should engage, appoint or designate at a

management level an individual or individuals that are qualified and skilled at assisting the board in managing risk. This individual or individuals must demonstrate a sound understanding of risk and be able to exercise sound judgment. The Insurance Marketplace Provider must also ensure documented policies, procedures and controls that are established will also take into consideration any risks that the jurisdiction may face arising from its clients. A culture of compliance should be created, ensuring that staff adhere to these policies, procedures and controls.

Cooperation with regulatory authorities

40. The Insurance Marketplace Provider must deal openly and cooperate with the Authority and any other relevant regulatory authorities. An Insurance Marketplace Provider should notify the Authority of any proposed material changes to its business plan and should alert the Authority to any significant developments relevant to its operations, its staffing or its systems and controls environment.
41. The Insurance Marketplace Provider must give written notice and details to the Authority where it has reason to believe that:
 - a) It will be unable to comply or be unable to demonstrate compliance with the requirements of the Code or legislation
 - b) A director or employee has engaged in activities involving fraud or other dishonesty
 - c) There is any material change to its indemnity cover
 - d) There has been any attempted or successful, material cyber breach

C. IMPLEMENTATION

42. The Code will come into effect immediately when published, and the established deadline for compliance is **1 January 2021**.