

FROM: Director, Worldwide Markets
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SUBJECT: SOUTH AFRICA: CODE OF GOOD BUSINESS PRACTICE
SUBJECT AREA(S):
ATTACHMENTS: Code of Good Business Practice
ACTION POINTS: **Brokers and Underwriters to note**
DEADLINE: **Immediate**

The South African Insurance Association (SAIA), of which Lloyd's is a member, has consulted broadly with relevant stakeholders, including member companies, regulatory bodies and consumer advocacy groups, to produce the Short-term Insurance Industry Code of Good Business Practice ('the Code') (see Appendix 1). The Code is a self-regulatory initiative, which requires all insurers to adopt the Code to improve standards of service for all South African business.

The Code relates to all insurance practice, but is focussed on Personal Lines business, as the regulatory body in South Africa, in common with all such bodies around the world, regards it as important that short-term consumers are properly treated by the insurance industry.

The Code requires South African member companies to be members of the Office of the Ombudsman for Short-term Insurance and to abide by the Ombudsman's rules and decisions when conducting Personal Lines business. In terms of the Code, any member of SAIA who is believed to be in breach of the Code's requirements can be reported to the Chief Executive of SAIA, who will submit the complaint to a Compliance Committee which has the power to investigate the complaint, to conduct disciplinary hearings and to make decisions on the corrective action to be taken.

If you have any queries about the above please contact any of the following:

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We have sent this bulletin to active underwriters and the compliance officers of Lloyd's brokers and managing agents and for information to market associations.

Julian James
Director
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CODE OF GOOD BUSINESS PRACTICE The South African Insurance Association

MISSION STATEMENT

The South African Insurance Association (SAIA) promotes the short-term insurance industry by creating a positive awareness and understanding of the industry.

THE OBJECTIVES OF THIS CODE ARE TO:

- Promote high ethical standards within the Short-Term Insurance Industry;
- Promote good relationships between insurers, intermediaries and consumers;
- Promote customer satisfaction; and
- Provide customers with a means of resolving disputes with their insurers.

REQUIREMENTS OF MEMBERS OF THE SAIA

Members will:

- Conduct business in good faith, with integrity, fairness, honesty, and in a transparent manner.
- Refrain from committing any malicious act or making malicious statements against another member.
- Not issue statements or behave in a way that would bring the insurance industry into disrepute.
- Strive continuously to provide an efficient, effective and helpful service to their insured clients to ensure a high standard of customer satisfaction.
- Comply with all applicable legislation.
- Not issue statements or advertisements, which make false, misleading and/or extravagant claims.
- Maintain financial soundness in terms of the Financial Services Board's requirements.

- Protect and respect the privacy of the insureds information obtained from various sources including but not limited to proposal forms, and obtain the consent from insureds to allow for the sharing of appropriate information to fight fraud.
- Promote the general public's understanding of insurance through education and disclosure.
- Ensure that their employees are familiar with this Code.

On joining SAIA, members undertake to:

- Join as members of the office of the Ombudsman for Short-term Insurance and when conducting personal-lines business, and abide by the Ombudsman's rules and decisions.
- Support consumer education initiatives of the SAIA.
- Adhere to the terms and conditions of Market Agreements to which they are signatories.
- Supply information requested by SAIA so that industry statistics can be collated and distributed where required.

EMPLOYERS AND INTERMEDIARIES

Insurers must:

- Furnish intermediaries with written mandates to act on behalf of insurers, clearly stipulating the terms and conditions of such agreements.
- Instruct intermediaries and employees not to provide advice in relation to any product in which they have not been trained, nor arrange insurance for consumers where the agent does not have sufficient expertise.
- Ensure that intermediaries are provided with appropriate product information and training.
- Ensure that employees receive adequate and ongoing training and instruction for the insurance service they are authorised to arrange or provide.
- Insist that Intermediaries inform consumers of the identity of the insurer for whom they are acting and the nature of the relationship between the insurer and the intermediary.

PROPOSALS ON NEW AND EXISTING BUSINESS

Where business is conducted solely telephonically, insurers must ensure that all calls are voice logged and that all disclosures are confirmed in writing within 30 days.

Insurers should, to the best of their ability, inform the insured of his/her duty to disclose.

Insurers must ensure that the insured are informed of their obligations in terms of the contract as stipulated in the Policyholder Protection Rules.

Insurers must inform insureds that documents should be read carefully.

DOCUMENTATION AND DISCLOSURE

Insurers must ensure that:

- Disclosure is in plain language.
- Disclosure is done at the appropriate time in writing, orally, by telefax or any other appropriate electronic medium.
- They confirm all oral disclosures in writing within thirty days.
- Members must disclose to personal-lines insureds and others upon request of:
 - a) The contact details of the Ombudsman for Short-term Insurance;
 - b) Premiums, loadings, excesses payable, exclusions or other special terms and conditions;
 - c) Due dates for premium payments and the consequences of non-payment;
 - d) Name, class and type of policy involved;
 - e) The full registered name, abbreviated name, postal and physical addresses of the head office and issuing offices, telephonic and electronic access numbers and communications details of service departments;
 - f) The name and contact details of the compliance department or officer of the insurer;
 - g) The procedures for the resolution of complaints by policyholders, including complaints in respect of independent intermediaries or representatives involved;
 - h) The nature of indemnification in the event of a claim; and
 - i) Advise insureds not to sign blank or partially completed application or proposal forms.

DISCRIMINATION

Members of the SAIA support fully the basic tenets of the Bill of Rights and will not unfairly discriminate directly or indirectly against anyone on one or more of the prohibited grounds as set out in section 9 of the Constitution, which includes race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

EXPLANATION OF CONTRACT

The contract of insurance is the governing document of the relationship between the insured and the insurer and the terms and conditions must be easily understood.

Insurers and their appointed intermediaries must:

- To the best of their ability, ensure that the prospective policyholder understands what is being purchased, and draw the buyer's attention to any restrictions and exclusions applying to the policy.
- Ensure that the extent of the cover provided is clear and unambiguous.
- To the best of their ability, ensure that the consequences of non-disclosure and inaccuracies are pointed out to the prospective policyholder.

CLAIMS HANDLING

Insurers and their appointed intermediaries must:

- Advise insureds on how to lodge claims.
- Make claim forms and other documentation pertaining to the claims readily available to insureds.
- Keep insureds up dated on the progress of the claim.
- Settle claims fairly without unnecessary delay.
- Where a claim is rejected, advise the insured of the decision and the reason for the rejection in writing.
- Advise the insured of action that can be taken if a dispute arises on a claim, and the time limits in which this action must be taken if the insured is not satisfied with the decision of the insurer.

REJECTION OF CLAIMS

Claims can only be rejected on the basis of evidence supporting:

- That there has been misrepresentation or material non-disclosure.
- That the claim is fraudulent.
- That there are material facts in dispute.
- That the loss is specifically excluded in terms of the policy.
- That the loss falls outside the cover provided by the policy.
- That there has been a non-payment of premium.

Claims can be rejected in terms of normal legal principles i.e. statutes, common law or legal precedent.

The insured must not be obliged to undergo a polygraph test, where the insured does undergo a polygraph test and fails to pass such test; this failure may not be the sole basis of the rejection of a claim.

INVESTIGATORS, LOSS ADJUSTERS AND ASSESSORS

The insurer must ensure that all investigators, loss adjusters and assessors acting on their behalf are appropriately qualified in the field they are investigating and act in a professional manner.

Insurers must ensure that the loss adjusters, assessors and investigators do not intimidate or threaten insureds for information.

There must be no commission or other incentives paid to investigators, loss adjusters and assessors, except for set fees charged.

DISCIPLINARY PROCESSES

Any complaints against a member of the SAIA for breaching any of the provisions of the Code of Conduct shall be lodged in writing to the Chief Executive of the SAIA who will submit the complaint to the Compliance Committee.

The Compliance Committee will be instituted to investigate the complaints made against the members of the SAIA, to conduct disciplinary hearings and to make decisions on the corrective action to be taken. This committee will comprise of a Professional Assistant of the Ombudsman for Short Term Insurance, the Chairman of the Ombudsman Council and the Insurance Registrar or an appointed representative will be appointed to serve on the Compliance Committee.

In the event that the Chairman of the Ombudsman Council is employed directly or indirectly by any member company of the SAIA he/she will not be entitled to serve on the Compliance Committee. The responsibility will then become that of the Vice-Chairman or any other democratically elected member of the Ombudsman's Council provided he or she is not an employee of member company.

Complaints against a member of the SAIA for not conforming to the Code of Conduct will only be investigated once the complaint is received in writing by the Chief Executive of the SAIA who in turn will hand it to the Compliance Committee.

The Chief Executive of the SAIA must receive complaints within one year of the incident occurring.

The compliance committee may impose any sanctions it deems fit including but not limited to the following:

- Rectification steps by the insurer within a specified time.
- A compliance audit.
- Corrective advertising to be done within a specified time and in specified publications.
- A fine payable to the SAIA. (Guidelines of which are to be drafted and amended by the Compliance Committee).
- Recommend the expulsion of the member from the SAIA.

Decisions and penalties imposed by the Compliance Committee are binding on Members. The affected Member Company may appeal against a decision in writing within fourteen working days.

If an appeal is received, the Ombudsman will act as arbitrator in the matter.

The final binding decision and reasons for that decision will then be sent in writing to the Insurance company and SAIA to be actioned.