

**Date** August 21, 2023

**Recipient** All stakeholders conducting business in Canada

**Subject** Market Conduct, Treating Customers Fairly & Incentive Management

<i>Purpose:</i>	To remind stakeholders of the Market Conduct/Treating Customers Fairly requirements within Canada
<i>Affects:</i>	All stakeholders conducting business in Canada
<i>Line of Business:</i>	All
<i>Jurisdiction:</i>	Canada
<i>Effective:</i>	Immediately

## What you need to know

To promote the fair treatment of customers, Canadian Council of Insurance Regulators (“CCIR”) and the Canadian Insurance Services Regulatory Organizations (“CISRO”) have established **Guidance: Conduct of Insurance Business and Fair Treatment of Customers**, and **Incentive Management Guidance**. In addition, various provinces across Canada have either, confirmed their adoption of the Guidance, or issued same or similar requirements, in their jurisdictions.

Most recently, under section 94.1 of the [Financial Institutions Act](#) (FIA), the British Columbia Financial Services Authority (BCFSA) issued the [Insurer Code of Market Conduct](#) to enhance confidence in British Columbia’s financial services sector.

## What this means to you

Attached below please see Lloyd’s Canada’s **Guidance on Fair Treatment of Customers** which will help you apply the FTC principles to the Lloyd’s market’s activities in Canada. Please review this guide to ensure the principles are observed while conducting business in Canada.

For further information, please contact [lloydscanada@lloyds.com](mailto:lloydscanada@lloyds.com).

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## Guidance on Fair Treatment of Customers

### Definitions

“**Consumer**” includes all actual and potential customers for insurance products.

“**Customer**” refers to policyholder (which, as the case may be, includes certificate holder) or prospective policyholder with whom an Insurer or an Intermediary interacts, and includes, where relevant, other beneficiaries and claimants with a legitimate interest in the policy.

“**Incentives**” are monetary and non-monetary compensation offered by Insurers or Intermediaries to their employees (including front line staff and management) and other persons or entities acting on their behalf in the sale and servicing of insurance products.

“**Insurer**” includes the various entities registered to do insurance business within any jurisdiction.

“**Intermediary**” is given a broad meaning. It encompasses individual agents, brokers and representatives (“representatives”) as well as the business entities that are authorized to distribute insurance products and services, including managing general agencies, third party administrators and national accounts, as the case may be. In Canada, Intermediaries that are subject to licensing and supervision can vary from jurisdiction to jurisdiction.

### Introduction

This guidance applies to all Intermediaries that are authorized to do business within any jurisdiction in Canada, whether licensed, registered or exempted from registration. In the concept of the Lloyd’s market Intermediaries, this includes: coverholders, managing agents, syndicates, underwriters, brokers, agents, and claims adjusters, involved in issuing policies to, or adjudicating claims for, Canadian customers.

The CCIR guidance applies to Insurers and Intermediaries and states “The Insurer is responsible for fair treatment of Customers throughout the life cycle of the insurance product, as it is the Insurer that is the ultimate risk carrier.... The Insurer’s ultimate responsibility does not absolve Intermediaries of their own responsibilities for which they are accountable. Treating Customers fairly is a shared responsibility when Insurers and Intermediaries are both involved.”

This guide provides the summary of the principles that should be established for the Lloyd’s market operating in Canada, however Lloyd’s participants in the Canadian market should become familiar with the CCIR Guidance and additional provincial guides to their full extent (see References below).

## Fair Treatment of Customers

The CCIR guidance for Fair Treatment of Customers (FTC) include concepts that are closely aligned with *The Principles for doing business at Lloyd's ("The Principles")* and include concepts such as ethical behaviour, acting in good faith and the prohibition of abusive practices and is intended to achieve outcomes such as:

- developing, marketing and selling products in a way that puts Customers' interests ahead of their own;
- providing Customers with accurate, clear, not misleading and sufficient information to allow them to make informed decisions;
- minimizing the risk of sales which are not appropriate to the Customers' needs;
- dealing with Customer claims, complaints and disputes in a fair and timely manner;
- protecting the privacy of Customer information.

The CCIR guidance for FTC includes the implementation of the following Principles.

## Governance and Business Culture

FTC must be a core component of the governance and business culture of all Insurers and Intermediaries.

## Conflict of Interest

In our dealings either with each other or with Customers, Lloyd's Canada and Intermediaries may encounter conflicts of interest. Therefore, any potential or actual conflicts of interest are avoided or properly managed and do not compromise FTC and the Customer's interests must be placed ahead of our own.

## Outsourcing

Outsourcing is defined as: *delegating to a service provider, over a defined period, the performance and management of a function, activity or process, that is or could be undertaken internally by the Insurer or the Intermediary itself.* Functions that are outsourced to service providers should not hinder the quality of services or the fair treatment of Customers.

## Design of Insurance Products

The design of a new insurance product or significant adaptations made to an existing product take into account the interests of Consumers.

This includes ensuring:

- a product delivers the reasonably expected benefits;

- targeting consumers for whom the product is likely to be appropriate and ensure the sale is appropriate;
- any risks resulting from the product have been considered;
- monitoring a product after its launch to ensure it still meets the needs of target Customers.

### **Distribution Strategies**

When developing a distribution strategy, it should be tailored to the product, consider the interests of the targeted Customer, and result in consistent consumer protections.

When considering a distribution model, including a digital solution, the needs of the Customer must be properly reviewed and fulfilled regardless of the distribution model used.

### **Disclosure to Customers**

Customers are given appropriate information to make an informed decision before entering into a contract. The information provided should be sufficient to enable Customers to understand the characteristics of the product they are buying and help them to understand whether and how it may meet their needs.

### **Product Promotion**

Any product promotional material provided to Customers must be accurate, clear, and not misleading.

### **Advice**

The FTC guidance recognizes that advice goes beyond the provision of product information and relates specifically to a personalized recommendation. Delivery of relevant advice should be communicated in a clear and accurate manner that is comprehensible to the Customer.

### **Disclosure to Policyholders**

Policyholders must be provided with information which allows them to make informed decisions throughout the lifetime of the policy contracts.

### **Claims Handling and Settlement**

Claims must be examined diligently and fairly settled. This should include the following:

- Maintaining written documentation on claims handling procedures, which include all steps from the claim being made up to and including settlement.
- Claimants are informed about procedures, formalities and common timeframes for claims settlement.

- Claimants are given information about the status of their claim in a timely and fair manner.
- Claim-determinative factors such as depreciations, discounting or negligence, if applicable, are explained to claimants. The same should apply when claims are denied in whole or in part.

## **Complaints Handling and Dispute Resolution**

CCIR and CISRO expect complaints to be examined diligently and fairly, using a simple and accessible procedure. Lloyd's in Canada has a defined complaint handling process for review and escalation of complaints, which all Lloyd's market participants must follow in respect of Canadian claims.

## **Protection of Personal Information**

Policies and procedures must be adopted to protect confidentiality of personal information by everyone who collects, accesses or processes information of policyholders or claimants. These policies and procedures must ensure compliance with legislation relating to privacy protection and reflect best practices.

## **Incentive Management Guidance**

It is expected that the establishment of Incentive Arrangements within the Lloyd's market align with the guidance provided by the CCIR and consider FTC first. Things that should be considered include the following:

- any incentive offered is consistent with the level of service expected throughout the product's life cycle.
- quantitative and qualitative performance targets and criteria are clearly defined, measurable and aligned to achieve FTC.

Assessments of risks of unfair outcomes to Customers and results of controls should be taken into consideration. The offering of a product to a Customer should never be influenced by potential compensation.

## **References:**

[AMF SOUND COMMERCIAL PRACTICES GUIDELINE](#)

[AMF INCENTIVE MANAGEMENT GUIDELINE](#)

[BC Insurer Code of Market Conduct](#)

[CCIR Conduct of Insurance Business and Fair Treatment of Customers \("FTC"\) guidance](#)

[CCIR Incentive Management Guidance](#)