



CENTRAL BANK OF
TRINIDAD & TOBAGO

Market Conduct Guideline for Registrants under the Insurance Act, 2018

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1. INTRODUCTION

- 1.1 The Central Bank of Trinidad and Tobago (“Central Bank”) has as one of its objectives pursuant to section 7(3)(a) of the Insurance Act, 2018 (“IA”/ “Act”) the promotion of the existence of efficient and fair insurance markets.
- 1.2 Further, section 278(1)(b) of the IA empowers the Central Bank to issue guidelines to enable the Central Bank to meet its objectives.
- 1.3 To assist with execution of its objective at 1.1 above, the Central Bank is issuing this **Market Conduct Guideline for Registrants under the Insurance Act, 2018 (“Guideline”)**. For the purpose of this Guideline, market conduct is defined as *“the manner in which a firm designs its products and services and manages prices, its relationship with consumers and the public”*¹. Market conduct seeks to promote the fair treatment of consumers and equal opportunities for regulated market participants. Therefore, market conduct refers to all strategies, policies, activities, systems, practices and measures that are instituted and performed by insurers and their intermediaries in the ordinary course of business to ensure that all consumers are treated fairly, until all obligations under the insurance contract have been satisfied.
- 1.4 Regulators seek to ensure that both consumers and registrants understand their rights, requirements and responsibilities and that a culture of fair practice exists. Schedule 11 of the IA stipulates some important aspects of market conduct which the Central Bank expects will promote a more responsible culture in the insurance sector.
- 1.5 Financial institutions that focus on profit maximisation without a comparable effort on consumer satisfaction through good client experiences, timely claims, complaints handling, and fair treatment – may face reputational risks and incur costs (legal and otherwise) and other losses that can eventually threaten their viability.
- 1.6 The requirement for fair treatment of consumers should guide the development of insurance products and services. It is an overarching principle that begins when information is provided to consumers and thereafter at every stage of the insurance life cycle. It caters to the specific needs of consumers (e.g. financial means, risk tolerance and appetite, etc.) and the addressing of their claims, complaints and disputes while protecting their privacy and confidential information. The fair treatment of consumers includes ethical behaviour, acting in good faith and the prohibition of abusive practices and it ends after all obligations of the contract have been fulfilled.
- 1.7 Market Conduct is the responsibility of all registrants. While insurers are the ultimate risk carriers and are responsible for good conduct throughout the insurance life cycle, intermediaries and insurance consultants are significant contributors to the sales and distribution process and may be involved in other areas. As such, insurers should ensure that intermediaries and insurance consultants have the requisite policies, procedures and processes in place to comply adequately with the market conduct requirements in Schedule 11 of the IA and these Guidelines.

¹ See the Market Conduct Guideline for Institutions licensed under the Financial Institutions Act, 2008 issued in November 2018.

2. APPLICATION AND SCOPE

- 2.1 This Guideline applies to **insurers, intermediaries and insurance consultants** registered under the IA (hereinafter collectively referred to as “**registrants**”) and excludes the following:
- 2.1.1 Products and services related to the establishment and operation of pension plans; and
 - 2.1.2 Other financial products and services offered by the registrant in Trinidad and Tobago under the Act, but are regulated under different laws or by other regulators (for example collective investment schemes).
- 2.2 Additionally, this Guideline should be read in conjunction with the Post Sales Communication – Policy Discontinuance Guideline and the IA, in particular, **section 266**, which requires that all registrants comply with the standards on Market Conduct as prescribed in **Schedule 11**. **Schedule 11** of the Act outlines the minimum requirements for the insurance industry’s conduct of insurance business in the areas of:
- 2.2.1 Sales and marketing materials;
 - 2.2.2 Understanding consumers’ needs;
 - 2.2.3 Privacy and data protection;
 - 2.2.4 Agent training; and
 - 2.2.5 Post Sales communication.
- 2.3 Other relevant sections of the Act that pertain to market conduct include, but are not limited to:
- 2.3.1 sections 129(1) and 132 which treat with the authority of agencies, and receipt of premiums by intermediaries, respectively; and
 - 2.3.2 sections 126, 130, 131, 141, 255, 256, 257, 258 and 259 as they pertain to rebating, disclosure of preferential arrangements, inducements, financial fraud, fraudulent misrepresentation, advertisements, and confidentiality of consumer information, respectively.

3. PURPOSE OF THE GUIDELINE

- 3.1 This Guideline supplements legislation, regulations and other guidelines governing the insurance sector. It considers best practices in market conduct as espoused in the Market Conduct Framework and Policy outcomes promulgated by the International Association of Insurance Supervisors (IAIS)².

² Insurance Core Principles (ICPs) were developed by the IAIS and provides a globally accepted framework of principles, standards and guidance for the regulation and supervision of the insurance sector. ICP 19 – The Conduct of Business (amended November 2017) states: “*The supervisor requires that insurers and intermediaries, in their conduct of insurance business, treat consumers fairly, both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.*”

3.2 The IAIS requires insurers to implement practices, policies and procedures that would facilitate the following outcomes as part of an inclusive and competitive marketplace and includes, *inter alia*:

3.2.1 Fair treatment of consumers;

3.2.2 Due skill, care and diligence when dealing with consumers over the entire formation, duration of the usage of the product or service;

3.2.3 Safety and security of consumers' assets, data and use of information; and

3.2.4 Professional ethics and standards in the handling of consumer claims, complaints and conflicts.

These outcomes are to be delivered throughout the product/service life cycle, from design and formation, promotion, through advice, servicing and complaints handling.

3.3 Accordingly, the purpose of this Guideline is to:

3.3.1 increase the registrant's awareness of the importance of fair treatment of all consumers in the conduct of insurance business;

3.3.2 encourage registrants to act in accordance with the IA when dealing with the provision of products and services to its consumers;

3.3.3 ensure that registrants as applicable, establish and implement relevant systems, policies and procedures for the fair treatment of consumers. This should include policies, procedures and systems that *inter alia* ensure that:-

(a) all contractual obligations ascribed to insurance products and services are fulfilled;

(b) consumer claims and complaints are handled in a prompt, fair and transparent manner;

(c) registrants' arrangements provide undisrupted experience of fair treatment; and

(d) timely and cost effective resolution of conflicts in a manner which reflect the balance of the rights and obligations of the consumer and the registrant.

3.3.4 ensure that the advertising and promotion of products and services is clear, fair and not misleading;

3.3.5 ensure that there is full disclosure of information by registrants throughout the life cycle of an insurance product or service; and

3.3.6 discourage financial fraud on policyholders.

4. DEFINITIONS

4.1 Except where specified in 4.2, the terms used in this Guideline have the same meaning as those defined in the IA.

4.2 Other terms used in this Guideline have the meaning as follows:-

Term	Meaning
advice	the provision of personalised professional recommendations on a product or service in relation to the disclosed needs of the consumer beyond the provision of product information.
consumer	a person who- <ul style="list-style-type: none"> (a) uses or has used any of the services provided by a registrant carrying on activities regulated under the Act; (b) has rights that are derived from, or are otherwise attributable to the use of such services by other persons; or (c) has rights that may be adversely affected by the use of any such services by persons acting on their behalf or in a fiduciary capacity in relation to them.
key information or key facts	any information which is likely to influence a policyholder's decision or other action with regard to a product or service.
marketing/promotional material/medium	any medium or document used as marketing or sales material for a product/service, including printed, electronic or digital posters, cards, brochures, pamphlets and illustrations.
policy servicing	the provision of relevant information to consumers throughout the life of the policy, including information on the insurer and the updating of records and the sending of updates and notices regarding the policy on an ongoing basis to the policyholder.
proposal	a prediction or estimate based on references to past performance.
registrant	in this Guideline pertains to an insurer, intermediary and an insurance consultant . Insurer, intermediary and insurance consultant have the same meaning as in the IA.
replacement	in relation to a long-term insurance policy, means where a policyholder has a long term insurance policy and, on the advice of an insurer or insurance intermediary, the policyholder procures another long term policy with view to replacing and discontinuing the existing policy.

5. MARKET CONDUCT OUTCOMES

This Guideline is patterned on the IAIS' Market Conduct Framework and the desired market conduct outcomes are discussed under seven (7) broad headings as follows:

- 5.1 *Fair Treatment of Consumers;*
- 5.2 *Product Suitability and Inclusiveness;*
- 5.3 *Responsible Business Conduct;*
- 5.4 *Due Care, Skill and Diligence;*
- 5.5 *Disclosure and Transparency;*
- 5.6 *Security of Consumer Information; and*
- 5.7 *Claims, Complaints Handling and Redress.*

5.1 FAIR TREATMENT OF CONSUMERS

The fair treatment of consumers should be a dominant philosophy and culture in the conduct of all operations and activities involved in the insurance business. Every aspect of the insurance lifecycle, from design, marketing, distribution and servicing of insurance products, should be driven by the requirement to be fair to all consumers.

5.1.1 Organisational Culture Of Fair Treatment

- (a) The Board of Directors (“Board”) and Senior Management should set the “**tone at the top**” by establishing a culture of fair treatment throughout the business. Business strategy, product design, product distribution and performance measures should be guided by the need to ensure the fair treatment of consumers. The Board and Senior Management should ensure that the registrant:
 - (i) provides information to consumers (*pre-, during, and post-sale*) that is accurate clear and not misleading;
 - (ii) minimises the risk of sales that are inappropriate for consumers’ needs and objectives;
 - (iii) offers advice that is commensurate with the needs of the consumer;
 - (iv) addresses claims, complaints and disputes promptly; and
 - (v) protects and safeguards consumers’ information.
- (b) The Board should ensure that the registrant has an approved market conduct strategy or policy and Senior Management should identify SMART³ objectives

³ SMART means Specific, Measurable, Attainable, Realistic, and Time-sensitive.

and targets against which the registrant's and staff's performance on good market conduct and fair treatment will be tracked. Registrants should assess the effectiveness and progress of its fair treatment strategy or policy by including it in the internal audit's scope of work and its internal audit's plan.

- (c) The management of registrants where applicable should communicate to all stakeholders that fair treatment of consumers is a priority. Senior Management should implement the required policies, procedures, controls and systems that ensure the fair treatment of consumers. The systems and controls implemented should facilitate monitoring of, and reporting on, compliance with approved market conduct policies and consumer redress mechanisms.
- (d) All decisions impacting consumers should undergo adequate scrutiny to ensure that the goal of fair treatment is achieved.
- (e) Product design and sales should be based on an understanding of, and be relevant to, consumers' needs.
- (f) Senior management should implement policies, procedures and systems to ensure that the privacy and confidentiality of consumer data and information are protected.
- (g) Registrants should ensure that all Board approved policies and relevant procedures for the fair treatment of consumers are available to all employees in a central and easily accessible location.
- (h) Registrants should have a board approved remuneration policy. Remuneration packages should restrict incentives and inducements to effectively negate and neutralize any possible self-interest. Reward and remuneration structures should incorporate quality driven performance, such as consumer satisfaction indices and not be predominantly dependant on the volume of sales.

5.1.2 Monitoring of Fair Treatment

- (a) Management of corporate/incorporated registrants should utilize different tools to monitor the insurer's fair treatment such as performance surveys, complaints analysis and even mystery shopping. Feedback from consumer surveys (post service, annual surveys, and product specific surveys), social media ratings and market intelligence activities can be used to gauge consumer satisfaction. Other activities such as training and awareness initiatives, repeat consumers' recommendations, complaints and other feedback portals can be the source to identify the level of perception of fair treatment and the need for corrective action.
- (b) Management reports should monitor the progress of changing the "fair treatment culture" in the establishment both as perceived by consumers and actual evidence. These reports should include corrective actions, activities and initiatives undertaken by the entity that will support the fair treatment culture e.g. retreats, training and even social activities that entrench its core principles and objectives.

- (c) Registrants, where applicable, should have board-approved procedures in place to assess the product risks and identify targeted consumers based on appetite, need and objective. Assessments of compliance with procedures and market conduct principles should be conducted and documented at the end of the developmental stages of a product.
- (d) The Board shall, ensure that effective controls are put in place to ensure that they can attest to fair treatment and suitability of advice in order to mitigate the risk of mis-selling. All proposals and sales should be monitored by Management to ensure suitability of the advice and the product.
- (e) The table at Appendix 1 summarizes the considerations for a registrant's fair treatment assessment.

5.2 PRODUCT SUITABILITY AND INCLUSIVENESS

Registrants should recommend and sell products and services that are suitable for the consumer's requirements and risk profile. The sale of products and services should be based on what is best suited for the consumer, given their needs, financial capability, risk profile and specific circumstances. Registrants should ensure access to insurance products and services by vulnerable groups in the society, e.g. the elderly and the person with disabilities. Registrants may consider the development of a formal financial inclusion policy.

5.2.1 Know Your Consumer

- (a) An integral part of assessing the suitability of a product or service for a particular consumer is the assessment of "right fit". Registrants should gather and record sufficient information from their consumers to assist with assessing their insurance needs before offering, recommending, arranging or providing a product or service.
- (b) Consumers should be informed of their duty to provide true, fair and complete disclosure, even if it will impact their risk, in order for the registrant to offer the most suitable product to them.
- (c) The assessment of suitability of products and services should incorporate consumer details such as their:
 - (i) needs⁴, priorities and objectives as it relates to the duration for which the consumer wishes to hold the product;
 - (ii) financial literacy;
 - (iii) current and projected financial capacity, taking into consideration the consumer's personal circumstances such as age, health, habits, debts, goals, dependents and future changes; and

⁴ Needs include types of products and services, for example investment, non –investment in nature, savings, life insurance and annuities.

- (iv) risk profile.
- (d) Registrants should have the requisite financial, product and industry knowledge, and should be aware of:
 - (i) market trends, economic conditions, and future developments which will affect the products and services;
 - (ii) ongoing industry segment information including characteristics and risks of the product and services;
 - (iii) the importance of communicating information regarding the products and services to consumers;
 - (iv) in the case of brokerages and brokers, the requirement to disclose to consumers and requisite stakeholders any relationships or situations that may compromise the impartiality of the advice; and
 - (v) all relevant legal and regulatory requirements pertaining to the consumer and the conduct of duties, including AML/CFT/CPF⁵ requirements.
- (e) Registrants should develop/design products that could be directed to vulnerable persons or groups. Focus group meetings for the different categories of vulnerable consumers in the profile (e.g. the elderly, lower income earners, persons with disabilities etc.) should be held to determine whether the target group understands the products that are being marketed to them.

5.2.2 Communication and Disclosures

- (a) Registrants should take reasonable steps to ensure that the consumer is given appropriate information about a product so that the consumer can make an informed decision about the proposed offer. This information should be given to the consumer both before, and at the point of sale, to enable an informed decision by the consumer.
- (b) The rationale given to a consumer for the recommendation to purchase a particular product should be documented and the consumer should attest to understanding his or her rights and obligations in relation to the service or product. In cases where the consumer opts not to take the recommended advice, an appropriately worded disclaimer should be signed by the consumer.
- (c) All advice should be communicated in plain language and in a clear, accurate manner that is easily understandable by the consumer.
- (d) A summary of the key facts related to the advice communicated verbally to a consumer should be retained by the registrant in print, electronic or other format that would facilitate easy retrieval.

⁵ Anti-money Laundering/ Combating the Financing of Terrorism and Counter Proliferation Financing Requirements.

- (e) Senior Management should institute appropriate checks and balances and should ensure that periodic reviews (e.g. at least every 3 years) of consumer files are conducted by Internal Audit for example, to confirm that the advice given meets requirements.
- (f) The findings of the periodic reviews as well as recommendations to resolve issues observed, should be reported to the Board by Senior Management.

5.3 RESPONSIBLE BUSINESS CONDUCT

Registrants must act with integrity and avoid situations that present actual or potential conflict of interest. Registrants must implement policies, procedures and systems for responsible business conduct to facilitate the fair treatment of consumers.

5.3.1 Integrity in Business Conduct

- (a) Appropriate attention should be paid to the recruitment of staff to maintain high standards of ethics and integrity and to deliver appropriate outcomes in terms of fair treatment of customers.
- (b) Registrants should implement systems and controls to improve safety and security of payment transactions that will deter the misappropriation of funds. For example, funds' access policies, introduction of electronic payment options, on-line banking, certified cheques and standing orders.
- (c) All reimbursements, whether for over-payment or for a denied facility, must be documented along with the rationale for the reimbursements. Consumers should be requested to acknowledge receipt of all payments in accordance with the registrant's procedures and records of the transaction shall be retained by the registrant.
- (d) Mechanisms and controls should be implemented to ensure that any departure from policies and procedures which will jeopardise the interest of consumers can be promptly identified and remedied.
- (e) Registrants should have a board approved Conflict of Interest policy, to guide their behaviour. This policy should include guidance on the acceptance of gifts, including thresholds for their acceptance based on frequency and dollar value. Senior Management should monitor compliance with these thresholds and consequences should be established for breaches of the policy. Disclosure to Senior Management should be required for gifts received beyond the stated internal threshold(s).
- (f) Insurers should implement effective systems to ensure that intermediaries acting on their behalf comply with the insurer's policies and procedures and the provisions of the IA and regulations.
- (g) Insurers should have mechanisms in place which would permit consumers to lodge complaints against intermediaries that act on the insurer's behalf, and which facilitate the insurer's monitoring of the resolution of complaints in a timely fashion. [See section 5.7 for details.]

- (h) Registrants should identify, measure and assess all possible threats to responsible business conduct and fair treatment within the business environment and the organisation and seek to mitigate its impact within the organisation.

5.3.2 Brokerages, Brokers, and Conflicts of Interest

- (a) Brokerages and brokers, where applicable, must not enter into any transaction which may conflict with the duty of care owed to the consumer unless such conflict is disclosed to the client and there is confirmation that the consumer consents to the transaction.
- (b) The policy on conflict of interest should be appropriate to the nature, scale and complexity of the regulated activities. The conflicts of interest policy should:
 - (i) identify the circumstances which constitute or may give rise to a conflict of interest or which may create a risk of damage to the interests of the brokerage's consumers and itself; and
 - (ii) specify the procedures to be followed, and measures to be adopted, in order to mitigate and manage such conflicts.
- (c) For brokerages and brokers, conflict of interest may arise where:
 - (i) the brokerage or broker owes a duty to two (2) or more parties in relation to the same matter;
 - (ii) a relationship (personal, financial or otherwise) between the brokerage or broker and the consumer and vice versa, influences the advice given to the consumer; and
 - (iii) the brokerage or broker can either receive financial gain or avoid financial loss at the expense of the consumer.
 - (iv) the brokerage or broker has an interest (whether direct or indirect) in the outcome of a service provided to, or carried out on behalf of, a consumer that is distinct from the consumer's interest.
- (d) Brokerages and brokers should take reasonable steps to ensure that neither they nor any of their officers or employees offer, give, solicit or accept any gifts or rewards, whether monetary or otherwise, that are likely to conflict with any duties of the recipient.

5.3.3 Adjusters and Intermediaries

- (a) An adjuster should be fair in its assessment⁶ of insurance claims and loss adjustment and provide the requisite details and rationale, so that the insurer and consumer can be assured that the latter was fairly treated.

⁶ Assessment should take into consideration best practices and any regulatory guidelines or laws.

- (b) Intermediaries must document and implement systems and controls that ensure consumers are fairly treated. For example, to demonstrate fair treatment, complaints should be logged; roles and responsibilities should be clearly identified; and trends analysed and discussed with insurers.

5.4 DUE CARE, SKILL AND DILIGENCE

Registrants should conduct their business activities with the necessary due care, skill and diligence and ensure that consumers are adequately informed and given full explanations of the nature and effect of all provisions in insurance policies issued and distributed by them. Consumers should be treated with due care, skill and diligence over the entire duration of the usage of the product or service.

5.4.1 Duty to Consumers

- (a) Registrants must:
 - (i) behave responsibly, comply with applicable laws and standards and conduct its business competently and fairly.
 - (ii) be fit and proper and have the necessary skills, knowledge and ability to conduct the business.
 - (iii) provide consumers with products and services which perform in accordance with the terms and conditions of the policy and as advertised.
 - (iv) take all reasonable actions to prevent the consumer from being overly indebted or financially burdened.
 - (v) be able to demonstrate to the Central Bank that consumers have received the requisite information to understand the product and their obligations as a consumer, before and at the point of sale.
- (b) Registrants should ensure that all persons employed to solicit and negotiate insurance business are fit and proper persons and registered with the Central Bank⁷.
- (c) Registrants should ensure that their employees and agents meet high standards of ethics and integrity. Registrants should encourage and ensure that standards of professionalism exist and their employees and agents operate in an honest and ethical manner when serving consumers and when handling consumers' suggestions, concerns, claims and complaints.

5.4.2 Policy Servicing

- (a) Policies shall be submitted to policy holders within **twenty (20) business days**⁸ of completing the contract.

⁷ Section 1.1 of the Central Bank's Fit and Proper Guideline.

⁸ S268 (1) and (2) of the IA.

- (b) Registrants, where applicable, should have clear, detailed service standard timelines to deliver information, complete contracts, pay/collect premiums, process claims, and handle complaints. Service standards should also be implemented for intermediaries and insurance consultants. Information on the registrant's service standards ought to be readily available to consumers in an easily understandable format.
- (c) Registrants, where applicable, must remit all policyholder funds to insurers within **ten (10) business days**⁹.
- (d) Registrants, where applicable, must disclose information to consumers on any contractual changes during the life of contracts and any relevant information based on the type of insurance.
- (e) Registrants, where applicable, should ensure that consumers understand:
 - (i) the consequences of their choice of beneficiaries; and
 - (ii) the administrative implications pertaining to changing a beneficiary and the selection of beneficiaries under the age of eighteen (18) years.
- (f) Registrants, where applicable, ought not to encourage policyholders to engage in replacement unless the replacement has significant benefits to the policyholder¹⁰.
- (g) Registrants, where applicable, must engage in policy servicing appropriately until all contractual obligations under the terms and conditions of the policy have been satisfied; and any other relevant market conduct principles have been applied.
- (h) Registrants, where applicable, should conduct spontaneous internal audits to ensure that employees are adhering to internal policy requirements.
 - (i) Registrants should conduct reviews of consumer profiles and products, as they become due for renewal. Findings and recommendations derived from such assessments should be documented and maintained by the registrant.

5.4.3 Post Sale Communication

- (a) Post-sale information updates should be provided to consumers at regular intervals to keep them informed of the performance of the product and any approved changes in the terms and conditions over the life of the product, such as, changes to rates offered or charges applied to a product¹¹.
- (b) Registrants should inform consumers that periodic reviews of profiles and portfolios will be conducted as part of its after sales services.
- (c) Insurers should have post sales documents that are clear, fair and not misleading. The information in these documents should be accurate, up to date and clearly

⁹ S134 (1) and (2) of the IA.

¹⁰ See the Central Bank's Guideline on Post Sales Communication - Policy Discontinuance - Guideline for further information.

¹¹ Refer to section 2.3 of the Central Bank's Post Sales Communication – Policy Discontinuance-Guideline.

written. The method of presentation of the information should not disguise, diminish or obscure important information.

- (d) Central Bank's Post Sales Communication - Policy Discontinuance - Guideline addresses the expected business conduct during the replacement of an existing long-term insurance policy from another provider.

5.4.4 Employee Training

- (a) All persons providing advice and /or soliciting or negotiating insurance business must pass statutory registration examinations and undertake ongoing training throughout their career, in accordance with continuous professional development (CPD) requirements.
- (b) Registrants, where applicable, should provide relevant training on an ongoing basis to their employees and intermediaries on specific products, market and industry trends, in order to establish and maintain a culture of fair treatment.
- (c) Registrants should maintain copies of the training programs for their employees and intermediaries. Details of the training including the participants, date, content and the illustrative material used in support must be logged and made available to the Central Bank upon request.
- (d) Section 119 of the Act has introduced a **compulsory Continuing Professional Development (CPD)** requirement. All registrants must comply with the **Insurance (Intermediaries) (Registration) Regulations, 2020** which require, among other things, that every intermediary shall complete a minimum of twelve (12) CPD hours for each CPD year¹².
- (e) A log of all training conducted and the participants must be maintained by Management. Evidence of such training must be maintained for at least six (6) years and may be reviewed upon request from the Central Bank¹³.

5.4.5 Market Misconduct and Fraud

- (a) Registrants, where applicable, should develop and implement policies and procedures that prohibit any form of market misconduct.
- (b) Registrants and their staff should not engage in fraudulent, deceptive or manipulative practices which may result in the client realising a loss and the staff/registrant realising a benefit.
- (c) Where internal controls' testing reveal that a consumer's policy/account is misstated, whether due to fraud or an error, the registrants should take such action(s) as may be required to correct the misstatement of the consumer's policy/account.

¹² Regulations 11 to 18 of the Insurance (Intermediaries) Registration Regulations, 2020.

¹³ Title of training/presenter, attendance log, particulars and copies of the training material.

5.5 DISCLOSURE & TRANSPARENCY

Information on products should be disseminated to consumers in a timely manner throughout the product life cycle in order to enable them to make informed decisions in their own interest. Sales and Marketing materials should not be misleading, and should be written in plain language, so as to be readily understandable by the general public¹⁴.

5.5.1 Disclosure of Information

- (a) Registrants should:
- (i) provide consumers with fair and non-misleading information via the appropriate channels indicated by the consumer, keeping them informed of all relevant information relating to the product or service before, during and after the point of sale.
 - (ii) provide information to consumers, including modal premiums, fees and charges, cash and surrender values, prohibitions/exclusions, and value of insurance cover. This should be in written format on paper or an accessible electronic format.
 - (iii) take the steps to provide appropriate access to products and services to vulnerable persons, such as those with disabilities. This should include providing brochures, booklets and other information in braille or audio format.
 - (iv) place emphasis on the quality of the disclosure, which should be clear, simple and easy to understand, especially when information on costs, risks involved and performance is being provided to the consumer;
 - (v) ensure that advertisements and correspondence:
 - 1) disclose the full name of the brokerage, agency or consultancy; and
 - 2) describe the registered person as a 'brokerage', 'agency', 'sales representative', 'adjuster' or 'consultant' clearly in a prominent manner so as not to give the impression that they are an insurance company.
 - (vi) explain to consumers at the proposal stage the consequences of providing inaccurate information, or making fraudulent statements or non-disclosure of material risks (e.g. age¹⁵, medical history¹⁶ or previous claims) could result in *inter alia*:
 - 1) a policy being cancelled;
 - 2) claims not being paid; and

¹⁴ Part A, Schedule 11 of the IA.

¹⁵ Section 167(1)-(3) of the IA.

¹⁶ Section 167(4) of the IA.

- 3) difficulty in purchasing insurance elsewhere.

5.5.2 Contracts and Other Agreements

- (a) The content and design of each contract of insurance or other agreement with the consumer must be clear and written in simple language so that the reader can easily understand the information. The following practices should be observed when drafting contracts, agreements, terms and conditions or any other documentation to be shared with consumers:
 - (i) Use reader aids as far as possible, for example, headings, notes in the margins, a table of contents, or a different print style to highlight key points;
 - (ii) Use simple words that are familiar to readers and, when that is not possible, define legal and technical terms;
 - (iii) Use an example or illustration to explain a complex concept or calculation, as appropriate; and
 - (iv) Maintain the document in an easy-to-read format, with an appropriate font type and size, print style and page design.

5.5.3 Advertisements & Marketing Materials

- (a) Registrants should have policies and procedures in place to review and approve advertisements, promotions and promotional documents prior to their use and distribution.
- (b) Sales and marketing materials are the insurer's responsibility. However, if this responsibility is delegated or outsourced to intermediaries, the sales and marketing materials produced by the intermediary should clearly identify the insurance company that is underwriting the product being advertised. Failure to clearly identify the underwriter of the product may mislead the public into thinking that the insurance product was underwritten by the brokerage or agency.
- (c) Before a product is promoted, all registrants where applicable, should take reasonable steps to ensure the information provided is written in plain language, clear, accurate, and not misleading. Where a promotional document is developed by an intermediary, the relevant insurer should verify the accuracy of, and approve, the promotional document before publication.
- (d) Important details, such as the terms associated with withdrawals for certain long-term insurance business, should not be omitted (either willful or inadvertently). Alternatively, if an advertisement is short or general in its content, additional explanatory material giving full details of the product or service should be provided to the consumer before they enter into a binding contract. It would be an unfair practice for an advertisement to be misleading by way of inaccuracies, ambiguity, exaggeration, and omission or otherwise.

- (e) It is an unfair practice if the registrant knows, or should reasonably be expected to know, that the consumer:
 - (i) is not in a position to protect his or her own interests; or
 - (ii) is not reasonably able to understand the character, nature, language or effect of the transaction or proposed transaction or any matter related to the transaction.
- (f) Intermediaries must not do business with, or advertise in any way insurance business from an insurance company which is not registered under the Act. For example, advertisements must not contain any reference to products which can only be obtained on a facultative placement basis from an unregistered insurer.
- (g) Advertisement, marketing or promotional documents must immediately be withdrawn if subsequent to publication the regulated person becomes aware that the information contains inaccurate, or misleading details.
- (h) An advertisement considered misleading or objectionable by the Inspector of Financial Institutions must be corrected or withdrawn.
- (i) Where a consumer uses digital means to conduct business with a registrant, all of the requirements/safeguards applicable to doing business via non-digital means must also be applicable including secure portals for funds transmission, security of consumer information and the prohibition on dissemination of such information to third parties.

5.5.4 Promotional Documents

- (a) Promotional documents used by registrants should:
 - (i) include the insurer's name and logo;
 - (ii) be documented in an easy to read format, with a clearly visible and legible font size, style and page design. Registrants should ensure that any small print(s) used should at a minimum be clearly visible and legible;
 - (iii) never mislead consumers when promoting the insurer's capabilities, scale of operations, resources, demands for the product and performance;
 - (iv) include the assumptions, and key information used to inform illustrations, forecasts and statements made in promoting the product or service, which are intended to convince a consumer to purchase the product or service;
 - (v) highlight material differences between products together with relevant advisories to consumers¹⁷.

¹⁷ See the Central Bank's Post Sales Communication –Policy Discontinuance Guideline for additional details.

- (vi) in the case of investment-linked insurance, formally and clearly indicate to prospective consumers that interest rates offered are subject to change during the lifecycle of the product.
 - (vii) be communicated and made available to the consumer. Where the consumer purchases a policy, periodic policy statements (indicating contributions, interest credited, charges and fees deducted, withdrawals etcetera.) should be made available to the consumer, where relevant. Material changes to any aspect of the policy should be communicated to the policy holder in writing; and
 - (viii) be clearly presented with each product, and its key information being easily identifiable even when shared platforms are utilized. Likewise, material changes and difference in products must be clearly stated.
- (b) Insurers must ensure that no unauthorized promotional document is utilized by its staff or intermediaries in making a sale.
 - (c) Intermediaries that are registered to a specific insurer must clearly disclose this fact in all their promotional documents.

5.5.5 Quotations and Proposals

- (a) Registrants providing an insurance quotation to a consumer must include the following information in the quotation:
 - (i) the type of insurance;
 - (ii) class of insurance;
 - (iii) insurance product name;
 - (iv) type of insurance risk to be covered;
 - (v) the monetary amount and currency of the quotation;
 - (vi) the length of time for which the quotation is valid;
 - (vii) the full legal name of the relevant underwriter/insurer; and
 - (viii) any other relevant key facts.
- (b) When proposing/offering a policy to a consumer, registrants must provide information about the basis of claim settlement according to the insurer's policies. The registrant must also clearly set out the basis on which the value of the asset /insured product will be calculated for the purposes of settling a claim, where the said asset/insured product is deemed to be beyond economic repair.
- (c) When offering a property or motor insurance policy to a consumer, a registrant must, where relevant, explain to the consumer that, in the event of a claim, the

registrant may appoint an adjuster/assessor or other expert to undertake an assessment of damages to the property or motor vehicle.

- (d) Where a registrant refuses to provide a quotation to a consumer, it should provide the consumer with the rationale for its refusal.

5.6 CONFIDENTIALITY & SECURITY OF CONSUMER INFORMATION

Consumers should be assured that their information is safely maintained. Policyholders have a right to expect that their financial transactions are kept confidential¹⁸.

- 5.6.1 Registrants should ensure that information received in the course of business, or any of the consumer's affairs, is not disclosed unless mandated by law or the consumer expressly consented to the disclosure.
- 5.6.2 Registrants should protect the confidentiality and security of personal data against any anticipated threats, or hazards to the security or integrity of such information, and against unauthorized access.
- 5.6.3 Registrants must be able to confirm that they have appropriate arrangements to facilitate secure storage, transmission, retrieval and destruction of consumer information. The insurer is ultimately responsible for the security of the consumers' information.
- 5.6.4 Registrants should ensure that:-
- (a) electronic information on policyholders should be stored on a secure server that is protected by passwords or other security protection. Servers should be kept in a physically secure area.
 - (b) sensitive policyholder data should not be stored on computers accessible by an open internet connection. If sensitive data is stored on such computers, appropriate software and firewall protection and intrusion detection devices should be utilized.
 - (c) secure backup media should be maintained, and archived data kept secure.
 - (d) all systems should be password protected and automatically locked once there has been no activity for a specified period of time. Passwords should be changed regularly and times of log on and off should be recorded.
 - (e) access to physical locations containing electronic policyholder information, such as buildings, computer facilities and records storage facilities should be restricted to authorized individuals only.

¹⁸ Refer to the Guideline on Safeguarding Security Systems for Customer Information, May 2005; and the Claims Guideline for Insurers, January 2021.

- (f) procedures should be designed to ensure that modifications to policyholder records and information are monitored and recorded and that checks are in place to detect and/or prevent and deal with unauthorized modification.
- (g) Policies and procedures should be implemented to ensure that information collected cannot be used for unfair personal, pecuniary or other gains by the Registrants, their staff, agents, related parties, affiliates or third parties.
- (h) Monitoring systems and procedures to detect actual and attempted attacks on, or intrusions into information systems should be in place.
- (i) Employees should be properly trained in maintaining the security, confidentiality and integrity of policyholder records and information. Training should be consistent with the user's function.
- (j) All new employees should be apprised of the security policies and procedures and should be trained in maintaining the security, confidentiality and integrity of policyholder records and information within two months of joining the employ of the regulated person.
- (k) Insurers are ultimately responsible for the privacy and protection of its consumers' information. Therefore, insurers must ensure and be able to assure its consumers that the requisite internal systems and controls are in place to secure consumer records. Insurers ought to have agreements in place to ensure that consumer information are kept confidential where services concerning the transmission, verification and storage of consumer information are outsourced. Periodic reviews of these confidentiality agreements ought to be conducted (within three years) to ensure that this requirement is maintained.

5.6.5 Outsourcing¹⁹

- (a) Where a registrant outsources data processing or other functions which result in the sharing of consumer information with a third party, they must ensure that adequate policies, procedures and systems are in place for the protection and confidentiality of consumer information by the third party. In addition, the registrant must:-
 - (i) get consent from consumers before their personal information is disclosed or shared; and
 - (ii) adhere to relevant data protection legislation in any jurisdiction in which they operate.
- (b) The registrant remains accountable and liable to the consumer for any breach of consumer confidentiality as a result of the outsourcing arrangement.

¹⁹ See the Central Bank's Guideline for the Management of Outsourcing Risks, February 2022.

5.7 CLAIMS, COMPLAINTS HANDLING & REDRESS

Registrants where applicable must handle consumers' claims and complaints in an independent, effective and prompt manner.

5.7.1 Claims Handling

maintain documented claims handling procedures, and institute a rigorous process for the timely and fair settlement of all claims²⁰. In addition, the registrant must -

- (a) inform consumers about processes, procedures and established timeframes for claims settlement as detailed in its Claim Policy;
- (b) train staff to address consumers' concerns promptly in order to reduce issues on claims, conflict of interest and complaints and to improve consumer satisfaction;
- (c) ensure that employees in the Claims Department are competent and qualified to process claims efficiently and effectively;
- (d) verify the validity of a claim received from a consumer prior to making a decision on its outcome;
- (e) provide information to claimants about the status of their claim in a timely manner. Any additional information required to process a claim should be communicated promptly to the consumer and if necessary, reminder notices should be sent;
- (f) inform the consumer in writing of the identity of the adjuster or appraiser and their scope of works where the insurer engages the services of a registered adjuster or expert appraiser to assist in the processing of the claim. Queries and concerns of the policyholder/claimant should be directed through the insurer and not to the adjuster;
- (g) be prepared to discuss all aspects of the claim with the consumer including the assessment of liability and damages during normal office hours, or outside of these hours if agreed by the consumer;
- (h) illustrate and explain in simple language to the claimant instances where claims have been impacted by depreciation, discounting or negligence. Likewise, this applies where claims are denied in whole or in part;
- (i) inform the claimant in writing of the decision made on the claim, the outcome of the investigation, and explain the terms of any offer of settlement, within the approved timeframes;
- (j) allow the claimant a reasonable amount of time to accept or reject the offer. This should be stated in the Claims Policy. Where the claimant accepts the offer within a short timeframe, the insurer must maintain a record of this decision;

²⁰ Refer to "Claims Guideline for Insurers" for additional information on Claims Handling.

- (k) settle and discharge the claim promptly where the claimant agrees to accept the offer;
- (l) provide reasons in writing to the claimant for denying a claim within a reasonable time;
- (m) have an internal independent review process for declined claims to ensure policies are consistently applied, decisions are objective and consumers are treated fairly;
- (n) provide consumers with information on any internal appeals mechanism available to the consumer; and
- (o) have mechanisms in place to review claims disputes to ensure objectivity in decisions and consistency in approach.

5.7.2 Errors and Complaints

- (a) Complaints are indicators or expressions of consumer's dissatisfaction with a service or product and these should be handled promptly. Errors however may impact consumer's treatment without a complaint being lodged. Therefore, registrants should:-
 - (i) have written procedures for the effective handling of errors which affect consumers; and
 - (ii) maintain a log of errors and indicate the steps taken to resolve errors and reduce consumer dissatisfaction.
- (b) Registrants must establish written policies and procedures to deal with all complaints in a fair manner. The policy should detail the expected timeframes and should make such information on their policies available to consumers.
- (c) Registrants must provide the complainant with the name of the individual appointed to be the point of contact as it relates to the complaint until it is resolved or duly advise the consumer if the complaint cannot be progressed.
- (d) Regular updates should be provided in writing on the progress of the review of the complaint. The assessment of each complaint should be properly documented and periodic reports should be submitted to Board and Senior Management for information and review.
- (e) Registrants should log and analyse the complaints received to identify recurring risk trends and root causes.
- (f) The insurer should log and analyse complaints made against its intermediaries in order to assess the complete consumer experience, the adherence to complaints policy and any conduct risks.

5.7.3 Alternative Dispute Resolution Schemes (ADRS) and Consumer Redress

- (a) Insurers should note and address situations where the consumer may be dissatisfied and advise them of their options, including that the consumer *may*:
 - (i) make a complaint to an Alternative Dispute Resolution Scheme (ADRS) registered with the Central Bank such as, the Office of the Financial Services Ombudsman (OFSO) which is a licensed ADRS;
 - (ii) make a complaint to the Inspector of Financial Institutions where the complaint falls outside of the remit of the OFSO, or other registered ADRS; or
 - (iii) seek redress in the Courts of Trinidad and Tobago.
- (b) The use of ADRS is voluntary and all terms and conditions, fees and expectations should be fully disclosed and discussed with the potential consumer.
- (c) All ADRS should log all complaints, identify trends, risks and submit an annual activity report to the Central Bank as stated in the *Policy Framework on Alternate Dispute Resolution Schemes for Insurance Companies*²¹.
- (d) Mediators and arbitrators should be independent. Doubts concerning independence is expected if the mediator has current or past affiliations with registrants; or simultaneously performs functions which could affect its independence.

6.0 COMPLIANCE AND ENFORCEMENT

- 6.1 In accordance with section 278(1) of the Act, this Guideline is being issued to facilitate registrants' compliance with the market conduct objectives stated in the Act as well as best practices on market conduct. Failure to comply with the requirements of this Guideline may invoke the Central Bank's regulatory authority to issue compliance directions under section 155 of the IA, as deemed necessary.

7.0 EFFECTIVE DATE AND TRANSITION PERIOD

- 7.1 This Guideline comes into effect on the date of issuance.
- 7.2 Registrants are expected to review this Guideline, conduct a gap analysis against its contents, and develop an action plan to address material gaps within a reasonably short timeframe. The action plan developed must be board approved and submitted to the Inspector of Financial Institutions within six months of the date of issuance of the Guideline.

²¹ This document is published on the Bank's website.

APPENDIX 1 - FAIR TREATMENT SELF-ASSESSMENT

Fair treatment should be measured by each registrant in accordance with the principles, outcomes and benchmarks detailed in Table 1 below.

Table 1.

	Outcomes	Principles	Benchmarks
1	Fair Treatment of Consumers	Fair Treatment culture is set by the Board and Senior Management	<ul style="list-style-type: none"> • SMART Strategies²² and business plans. • Board approved policies that promote fair treatment of consumers. • Focus on consumer satisfaction in management reports to the Board, derived from the assessment of consumer surveys and performance against targets. • Prompt addressing of issues. • Concerns and feedback are utilized in decision making.
2	Inclusiveness and Product Suitability	Products and services offered are suitable for the varying and distinct client profiles and consumer segments	<ul style="list-style-type: none"> • Evidence of advice and recommendations provided by employees. • Periodic reviews of consumer profiles and assessments. • Keeping consumer up to date on product facts and performance. • Monitor changes in consumer profiles.
3	Responsible Business Conduct	Clear and consistent standard of service to consumers	<ul style="list-style-type: none"> • Performance factors should include client retention, continuous assessments of client satisfaction, complaints, compliance records and competency assessments. • Consumer surveys and mystery shopping exercises to test performance with policies.
4	Due Care, Skill and Diligence	Competent representatives are appointed who demonstrate the core philosophy of fairness and this result in due care and diligence.	<ul style="list-style-type: none"> • Training to promote ethics and fair treatment in operations. • Specialized training for staff in handling claims and complaints. • Continuous Professional Development. • Log of training material and participants.

²² Strategies should identify ways of achieving the objectives and priorities, measurable targets and tracking performance against these targets.

	Outcomes	Principles	Benchmarks
5	Security of Consumer Information	Consumer privacy is respected	<ul style="list-style-type: none"> Formalised policies and training on security and safety of information. Evidence of on-going monitoring and updates of IT system. Review and ensure capabilities of IT systems to provide requisite protections. Periodic reviews of confidentiality agreements.
6	Disclosure and Transparency	Clear and consistent standard of service to consumers	<ul style="list-style-type: none"> No misleading, inaccurate statements in marketing materials. Communication with consumers to provide status updates on an on-going basis.
7	Complaint Handling & Redress	Address matters promptly and maintain communication with consumers	<ul style="list-style-type: none"> Analysis of complaints, time taken to complete, rationale for decisions and trends noted. Communication with consumers to provide status updates on an on-going basis. Performance factors should include client retention, continuous assessments of client satisfaction, complaints, compliance records and competency assessments. Consumer surveys and mystery shopping exercises to test performance with policies.