



BERMUDA MONETARY AUTHORITY

THE INSURANCE MARKET PLACE CODE OF CONDUCT

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THE INSURANCE MARKET PLACE CODE OF CONDUCT

Introduction

1. This document outlines the Bermuda Monetary Authority's (the Authority) Insurance Market Place 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 Market Places. For the purpose of the Code, Insurance Market Place has the meaning given in section 1(1) of the Insurance Act 1978 (the Act), as amended 2019.
2. The Insurance Market Place 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.

Authorization

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 Market Place including the procedures and practices to be observed by such persons. In assessing whether the Insurance Market Place 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 Market Places 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 Market Place's nature, scale, and complexity. These factors will be considered as a whole, rather than individually (e.g. an Insurance Market Place 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 Market Place and the insurer and/or policyholder, 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 Market Place 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 Market Place 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 Market Place 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, or a failure to act, or apathy toward a duty that would cause damage to the Insurance Market Place's reputation, damage to their clients or threaten the public interest. The Insurance Market Place must ensure that there are effective controls in place to mitigate against reputational damage and against threats to the public interest.
9. The Insurance Market Place 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 Market Place 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 Market Place 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 Market Place.
11. The Insurance Market Place 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 Market Place.

B. PRINCIPLES OF INSURANCE MARKET PLACE BUSINESS

Business to be conducted in a prudent manner

12. It is the responsibility of the board and senior management of an Insurance Market Place 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 Market Place'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 of, and 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 Market Places
 - h) Suitability of the Insurance Market Place platform, including cyber security and technology
13. The board of the Insurance Market Place is ultimately responsible for its overall risk and control framework. The board is also responsible for ensuring that the Insurance Market Place 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 Market Place 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 Market Place 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 a new client or business on-boarding and financial transactions. In particular, staff need to identify suspicious financial transactions on an ongoing basis.

15. The Insurance Market Place must have appropriate policies and procedures to prevent and detect fraud and criminal activity, and to ensure compliance with all legal and regulatory requirements including anti-money laundering and anti-terrorist financing regulations and the international sanctions regime. The Insurance Market Place must comply with applicable laws both locally and in any foreign jurisdictions in which the Insurance Market Place operates.
16. The Insurance Market Place 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 Market Place's operations. Insurance Market Places 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 Market Place 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 Market Place can continue to trade in the event of a lawsuit or legal action for damages. The Insurance Market Place's board and management must assess the level of risk that an Insurance Market Place faces and purchase insurance coverage appropriate for the business.

Adequate accounting, record keeping systems, and reporting requirements

19. An Insurance Market Place shall ensure that it has adequate financial and insurance market place systems and controls, and books and records that are maintained and subject to an appropriate control framework.
20. The Insurance Market Place 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 Market Place 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 Market Place must observe high standards of integrity and fair dealing in the conduct of its business.
23. The Insurance Market Place is required to have sufficient safeguards in place to protect client loss arising from failure in the Insurance Market Place's systems, staff or other operational risks. Where an Insurance Market Place 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 accounts distinguishable from the Insurance Market Place's own bank accounts.
24. The Insurance Market Place 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 Market Place must have a documented fee structure that must be disclosed to each client when it provides insurance market place 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 Market Place 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 those 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 Market Place is licensed by the Authority including the type of license issued
27. Information relating to clients or insurers must be kept confidential. The Insurance Market Place 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 Market Place shall provide clients with adequate information about the Insurance Market Place's business including their registered business address and telephone number.

Complaint handling

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

Fraud

32. The Insurance Market Place 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 Market Place 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 Market Places 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 Market Place's business and international sanctions, together with any other relevant legislation that may come into force from time to time.
34. The Insurance Market Place 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 Market Place 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 Market Place retains the ultimate responsibility for the appropriate delivery of any function or service that is outsourced.

Reputation of Bermuda

37. Insurance Market Places should not bring the reputation of Bermuda into disrepute. The matter will need to be evaluated for each Insurance Market Place on a case-by-case basis. Clearly, this is an area where a risk-based approach may be justified; however, it needs to be emphasized that the Authority would view any failure in this obligation with the utmost gravity.
38. The board of the Insurance Market Place must develop and implement documented policies and procedures to address these obligations for the mitigation of reputational risk, money laundering and terrorist financing risk, etc. The Insurance Market Place must also ensure that documented policies and procedures, and controls that are established will also take into consideration any risks that the jurisdiction may face arising from its clients.

Cooperation with regulatory authorities

39. The Insurance Market Place must deal openly and cooperate with the Authority and any other relevant regulatory authorities. An Insurance Market Place 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 to its systems and controls environment.
40. The Insurance Market Place 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 been engaged in activities involving fraud or other dishonesty
 - c) There is any material change to its indemnity cover
 - d) If there has been any attempted or successful material cyber breach

C. IMPLEMENTATION

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

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