

LEGAL NOTICE NO.....

**THE INSURANCE ACT**

*(Cap. 487)*

**INSURANCE (MARKET CONDUCT) GUIDELINES, 2018**

**IN EXERCISE** of the powers conferred by section 3A(a), (b) and (g) of the Insurance Act, the Insurance Regulatory Authority issues the following guidelines—

**INSURANCE (MARKET CONDUCT) GUIDELINES, 2018**

**Part I: Preliminaries**

1. These guidelines may be cited as the Insurance (Market Conduct) Guidelines, 2018. Citation.
2. In these guidelines, unless the context otherwise requires— Interpretation.

**“treating customers fairly”** means an outcome based regulatory and supervisory approach designed to ensure that a entity delivers specific, clearly set out fairness outcome for its customers

**“Market conduct”** means elements of regulations and supervision focusing on an entity’s behaviour including non-distortive and non-abusive business practices and information disclosures in providing services to consumers.

**“Entity”** means a person registered under the Insurance Act.

**“Conduct of business risk”** means the risk to customers, insurers, the insurance sector or the insurance market that arises from entity conducting their business in a way that does not ensure fair treatment of customers.

3. These guidelines provide principles to be adhered to in conduct of insurance business, which is primarily concerned with the fair treatment of customers. The fair treatment of customers encompasses concepts such as ethical behaviour, acting in good faith and the prohibition of abusive practices.

Introduction

4. The purpose of these guidelines is to:-

Objective

(a) strengthen public trust and consumer confidence in the insurance sector;

(b) ensure that entity maintain high standards of integrity and fair dealing in conduct of their business;

(c) ensure that entity exercise due care and act in a diligent manner in dealing with customers;

(d) ensure that entity promote products and services in a manner that is fair and not misleading;

(e) ensure that an entity obtains sufficient information about the customer to assess their insurance needs and treat confidential information as such; and

(f) ensure that an entity communicates relevant and meaningful information in a timely and comprehensive manner to policyholders.

5. These guidelines shall apply to all entities depending on their nature, size and complexity.

Scope

## **Part II: General Requirements**

6. An entity shall develop, document and implement a conduct risk framework to manage the conduct of business risk.

General requirements

7. The ultimate responsibility for fair treatment of customers shall rest with the board and management of the entity.

8. An entity shall make relevant policies and procedures publicly available, in particular its claims handling, complaints handling and dispute resolution policies and procedures.
9. An entity shall exercise due care, skill and diligence when dealing with customers.
10. An entity shall develop and implement policies and procedures for fair treatment of customers, including taking appropriate measures to ensure that its employees, service providers and intermediaries meet high standards of ethics and integrity.
11. Fair treatment of customers encompasses achieving outcomes which shall include but not limited to:
  - (a) developing and marketing products in a way that pays due regard to the interests of customers;
  - (b) providing customers with clear information before, during and after the point of sale;
  - (c) reducing the risk of sales which are not appropriate to customers' needs;
  - (d) ensuring that any advice given is of high quality;
  - (e) dealing with customer complaints and disputes in a fair manner;
  - (f) protecting the confidentiality of information obtained from customers;
  - (g) managing reasonable expectations of customers.
12. An entity shall ensure that the fair treatment of customers is entrenched in its culture and includes the following;
  - (a) Designing, implementing and monitoring adherence to policies and procedures aimed at ensuring that customers are treated fairly;
  - (b) Designing of the business strategy taking into consideration fair treatment of customers;

Fair Treatment  
of customers

- (c) Identifying, collecting and evaluating relevant management information for monitoring fair treatment of customers;
  - (d) Establishing mechanisms and controls to ensure that all departures from policies and procedures as well as all other situations that jeopardize the protection of the interests of customers are promptly remedied; and
  - (e) Training relevant staff to deliver appropriate outcomes in terms of fair treatment of customers.
13. An entity shall promote insurance products and services in a manner that is clear, fair and not misleading.
14. An entity shall be responsible for providing information that is accurate, clear and not misleading not only to customers but also to other entities who may rely on this information in providing advice to customers.
15. An entity shall, if it subsequently becomes aware that the information provided is not accurate and clear or is misleading, withdraw the information and notify any person that it knows or deems to be relying on the information as soon as reasonably practicable.
16. An entity shall ensure that the information disclosed is accurate in all material respects, not misleading, easily understandable, and available in writing or appropriate electronic means.
17. An entity shall provide at a minimum the following information:-
- (a) Features of the insurance product;
  - (b) The benefits, costs and risks to the customer;
  - (c) The rights and obligations of the parties involved;
  - (d) Complaints handling procedures; and
  - (e) The duty of customers to disclose material information.

Information  
Disclosure

18. An entity shall provide a customer with a full and fair account of the status of the policy at least annually.
19. An entity shall ascertain the customer's needs, before giving advice or concluding a contract.
20. An entity shall explain and document the basis on which a recommendation is made, particularly in the case of complex products and products with an investment element.
21. An entity shall have appropriate policies and procedures to identify and manage conflicts of interest.
22. An entity shall identify and manage conduct of business risks arising out of outsourcing arrangements.
23. An entity shall develop and implement policies and procedures for the protection of confidential information on customers.

### **Part III: Market Conduct for Insurers**

24. An insurer shall take into account the interests of different types of customers when developing and marketing insurance products.
25. An insurer shall before marketing a product or service, carry out a diligent review of the product in relation to its business model, the existing rules and regulations as well as its risk management approach.
26. An insurer shall provide support to intermediaries to ensure that they understand the target market and thus reduce the risk of mis-selling.
27. An insurer shall review the advice given by the agents to ascertain the quality of advice given and take any necessary remedial measures.
28. An insurer shall ensure that their conduct risk framework incorporates policy servicing through to the point at which all obligations under the policy have been discharged.
29. An insurer shall issue a policy document within 14 days after inception of a policy.

#### **Part IV- Market Conduct for intermediaries**

30. An intermediary shall ensure that the client understands the relationship with the intermediary and on whose behalf the intermediary is acting.
31. An intermediary while making a sale to a customer shall ensure that where a proposal form is used, the form is completed and signed by the customer. Development and marketing of products
32. The intermediaries shall disclose to their customers about any cancellation rights, obligations and conditions;
33. An intermediary shall;
- (a) quote terms exactly as provided by the insurer;
  - (b) provide the client with prompt written confirmation that insurance has been effected; Policy servicing
  - (c) If the final policy document is not provided with the above confirmation, the policy document shall be provided within 14 days;
  - (d) provide an acknowledgement note, at the time of delivery of the policy document, to be signed and dated by the client acknowledging the receipt. The cooling off period shall commence on the date of receipt of the policy document by the policyholder.
  - (e) at the point of sale, advise their clients on the consequences of surrendering the policy in its early years.

#### **Part V- Market Conduct Guidelines for service providers**

34. An insurance service provider shall;
- (a) accurately disclose its role in any professional engagement;
  - (b) disclose to the insured , claimant or any other third party the principal on whose behalf they are acting;
  - (c) only disclose information, pertaining to an insurer, insured or claimant acquired in the course of engagement, to any third party, with the consent of the concerned party;

- (d) ensure that the reports issued comply with all statutory requirements and meet the requisite professional standards.

35. Where the Authority determines non-compliance with the provisions of these guidelines, it may take any intervention prescribed in the Insurance Act. Enforcement.

36. Where the Authority determines that the entity has not met the requirements of these guidelines, the Authority may impose any or all of the administrative sanctions to correct the situation in accordance with the provisions of the Insurance Act, including but not limited to— Administrative Sanctions

- (a) Direct the entity to take appropriate remedial action.
- (b) Impose additional reporting requirements and monitoring activities;
- (c) Withdraw or impose conditions on the business license taking into account the nature of the breach and;
- (d) Monetary penalties not exceeding Kenya Shillings one million.

Issued on the ..... 2018.

**ABDIRAHIN H ABDI**  
*Chairman,*  
*Insurance Regulatory Authority.*

**GODFREY K KIPTUM**  
*Ag. CEO & Commissioner of Insurance*  
*Insurance Regulatory Authority.*