



GUIDELINES ON THE CONDUCT AND ROLES OF LABUAN INSURANCE AND TAKAFUL BROKERS

1.0 Introduction

- 1.1 The Guidelines on the Conduct and Roles of Labuan Insurance and Takaful Brokers (the Guidelines) sets out the requirements on the conduct and roles of Labuan insurance and takaful brokers.
- 1.2 The Guidelines is issued to regulate the conduct and intermediation roles performed by Labuan insurance and takaful brokers with the objective of promoting high standards of professionalism.
- 1.3 Labuan FSA requires all Labuan insurance and takaful brokers to have regard to the Guidelines, so as to help foster professional conduct and enhance confidence in the insurance industry within the Labuan International Business and Financial Centre (IBFC).
- 1.4 However, taking cognisant of the distinctive clientele and transactions involved for direct broking as compared to reinsurance broking, Labuan FSA's expects adherence to the Guidelines' requirements to be on *mutatis mutandis* basis and to be appropriately applied in accordance to the differing circumstances of the two broking businesses. Direct broking business will attract higher supervisory expectation in its duty of care in order to protect the interest of individual policyholders. On the other hand, reinsurance broking which involves dealings with ceding (re)insurers, such expectations would be relatively lower as being industry players themselves, they will be able to employ other sophisticated, commercial means to ensure their interest is protected when entering into a broking arrangement.
- 1.5 It is also the expectation of Labuan FSA that the self-regulation initiatives by the Labuan International Insurance Association (LIIA) would play a role in inculcating high professionalism in the conduct of the Labuan insurance and takaful broking in line with the expectations of the Guidelines.

2.0 Applicability

- 2.1 The Guidelines is applicable to all brokers licensed under Part VII of the Labuan Financial Services and Securities Act 2010 (LFSSA) and Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA).

- 2.2 For the purpose of the Guidelines, the term:
- (i) “Labuan insurance broker(s)” shall include Labuan insurance or reinsurance brokers and takaful or retakaful brokers;
 - (ii) “insurance” shall include reinsurance, takaful and retakaful, unless the term reinsurance is used specifically in certain parts of the Guidelines; and
 - (iii) “reinsurance” shall include retakaful.

3.0 Legal Provision

- 3.1 The Guidelines is issued pursuant to Section 4A of the Labuan Financial Services Authority Act 1996 (LFSAA) for the purpose of clarifying the Labuan FSA’s expectation on the sound conduct to be observed by Labuan insurance brokers in Labuan IBFC.

4.0 Effective Date

- 4.1 The Guidelines shall come into effect on 1 January 2018 and would remain effective and applicable unless amended or revoked.

SECTION I: CONDUCT OF AN INSURANCE BROKER

5.0 Integrity

Principle 1:

Insurance brokers shall at all times act honestly and in a transparent manner when dealing with their clients. It is essential that they act with integrity and high ethical standards.

- 5.1 When dealing with their clients¹, Labuan insurance brokers shall:
- 5.1.1 conduct their business with honesty, fairness, integrity and professionalism in order to maintain good faith and trust in the insurance and takaful industry; and
 - 5.1.2 not engage in any conduct involving fraud or dishonesty or commit any act that reflects adversely on their honesty or trustworthiness or that compromises their integrity and reputation.

¹ The term “clients” comprises policyholders, cedants (insurers) or retrocedants (reinsurers) that the insurance broker represents and serves.

6.0 Competence

Principle 2:

Insurance brokers must possess the necessary competencies when undertaking the intermediation work. Ongoing competencies advancement by way of training is critical to ensure that the knowledge and skills of insurance brokers remain relevant in tandem with market developments and practices.

- 6.1 All Labuan insurance brokers shall act with competence and strive to maintain the knowledge and expertise needed to ensure proper conduct and dealing in the course of performing his roles.
- 6.2 All Labuan insurance brokers must be:
- 6.2.1 suitably qualified, competent and possess the required professional training or experience to act in the capacity so employed or appointed;
 - 6.2.2 equipped with the skills in relation to the insurance broking activities and intermediation roles on on-going basis; and
 - 6.2.3 kept abreast of advancements in the insurance industry and participate in continuous professional development so as to better service their clients' needs adequately. In this regard, Labuan life brokers are required to observe *the Supplementary Guidelines on Standards of Certification for Labuan Financial Advisors under the Employment of Labuan Life Insurance Broking Companies* for their appointed representatives carrying on client advising and/or client facing activities.

7.0 Due Care and Diligence

Principle 3:

When dealing with clients, insurance brokers must act with due skill, care and diligence.

- 7.1 Labuan insurance brokers shall exercise due care and diligence in understanding and satisfying the insurance requirements of their client and must take all reasonable steps to act fairly in the interests of their client.
- 7.2 The client shall be provided with prompt written confirmation or documentation that a contract of insurance has been effected.

- 7.3 A Labuan direct insurance broker shall explain to its clients:
- 7.3.1 the principle of utmost good faith and make it clear that all answers and statements given in completing the proposal form, claim form, or other material document are the client's own responsibility; and
 - 7.3.2 that inaccurate information given in completing the proposal form, claim form, or other material document may result in the contract of insurance being invalidated or void or claims being repudiated.
- 7.4 In cases where two or more insurance brokers act jointly on an insurance placement, they shall each take appropriate steps to ensure that there is a clear mutual understanding of their respective duties to the client. In this regard, such arrangement must be sufficiently disclosed to the client.
- 7.5 A Labuan insurance broker shall have adequate systems and processes in place to ensure proper supervision of its broking activities.
- 7.6 Prior to the cessation of its business as the insurance broker, the insurance broker shall ensure that its liabilities and obligations to all clients have been fully discharged or provided for, and that proper arrangements have been put in place to ensure that its clients continue to be serviced by another insurance broker.

8.0 Professional Client Management

Principle 4:

The establishment and implementation of policies and procedures on the fair treatment of clients shall form an integral part of insurance broking business culture. This includes the requirements for insurance brokers with regard to the timing, delivery, and content of information provided to clients at point of service as well as ensuring that, where clients receive advice before concluding an insurance contract, such advice is appropriate, taking into account the clients' disclosed circumstances.

- 8.1 Labuan insurance brokers shall:
- 8.1.1 provide their clients with adequate information about their business, including the address of its principal place of business;
 - 8.1.2 disclose the types of insurance business they are authorised to carry on;
 - 8.1.3 explain all the essential provisions contained in the contract of insurance which they are recommending to ensure that their clients understand what they are buying;

- 8.1.4 draw their client's attention to any restrictions or exclusions applying to the contract of insurance;
 - 8.1.5 advise their client of any additional fees they intend to charge their client in addition to the premium payable to the insurer;
 - 8.1.6 reveal the relationship they have with the insurers with whom they deal;
 - 8.1.7 disclose information on the basis on which they are remunerated where a potential conflicts of interest exists;
 - 8.1.8 timely provide its clients with clear information before, during and after the provision of service; and
 - 8.1.9 refrain from inappropriately advising its clients to convert, allow to lapse, cancel or surrender any long-term contract, for example life insurance, unless it can demonstrate that the action is for the best interest of the clients.
- 8.2 When providing advice to, or arranging contracts of insurance for their client, the Labuan insurance broker shall make full and adequate disclosure of all facts necessary for their client to make an informed decision.
- 8.3 In upholding client's interest and request, Labuan insurance brokers must:
- 8.3.1 be independent and impartial, as far as practicable, in providing advice to their client. In this regard, Labuan insurance brokers shall be mindful that the commissions received shall not have undue influence for them to act in their own interest vis a vis the clients'. Amongst others, higher commissions paid by one client relative to another must not adversely affect the advice given by the broker; and
 - 8.3.2 not prejudice their client's selection of insurers and, as far as practicable, procure covers from several insurers that they are aware which offer the protection that the client wishes to purchase.

9.0 Managing Conflicts of Interest

Principle 5:

In the course of their business, insurance brokers shall ensure that any potential conflicts of interest is managed in a professional manner.

- 9.1 Labuan insurance brokers shall act in the best interest of their clients in providing services to the clients and avoid situations where conflicts of interest may arise.

- 9.2 Prior to establishing a client relationship, Labuan insurance broker shall disclose to the client any actual or potential conflicts of interest arising from any connection to or association with any product provider, including any material information or facts that might compromise their objectivity or independence in carrying on its activity as an insurance broker.
- 9.3 In assigning duties, Labuan insurance broker shall not place itself in situations where conflicts of interest may arise. It shall ensure that there is proper segregation of duties to minimise any possible conflicts of interest. In circumstances where such conflicts cannot be avoided, the insurance broker shall disclose these conflicts, whether potential or actual, to their client.

10.0 Effective Complaint Handling

Principle 6:

Insurance brokers shall support a system of complaints handling by having policies and processes in place to handle complaints in a timely and fairly manner.

- 10.1 A Labuan insurance broker shall have in place adequate procedures and processes for handling complaints relating to its business.
- 10.2 A Labuan insurance broker shall ensure that complaints received are:
- 10.2.1 handled in a fair, timely and appropriate manner;
 - 10.2.2 promptly investigated and responded to; and
 - 10.2.3 registered and maintained with the details and how they have been dealt.
- 10.3 The Management shall review the complaint register regularly and ensure its sufficiency.

11.0 Upholding Confidentiality

Principle 7:

Insurance brokers must adopt policies and procedures for the protection of private information on their clients. Information, which a client might reasonably expect to be confidential, should be treated as such. Clients should also be informed on their duty to disclose relevant information.

- 11.1 A Labuan insurance broker shall implement and maintain proper procedures to preserve confidentiality of information it receives from a client or which relates to a client.
- 11.2 A Labuan insurance broker shall not disclose to any person any information given by a client that is deemed as private and confidential unless:
- 11.2.1 the information obtained from the client is given to Labuan FSA or any other government agencies in accordance with any relevant law where such disclosure is required as part of the statutory requirements; or
 - 11.2.2 the client has given his consent to the Labuan insurance broker to disclose the information and for such information to be used only as intended or permitted by the client.
- 11.3 In the course of conducting broking activities, Labuan insurance brokers shall ensure adherence to the secrecy provision provided under LFSSA, the Personal Data Protection Act 2010 (PDPA) and any other legislations and requirements where applicable. The Labuan insurance brokers should also endeavour to ensure that their clients acknowledge the PDPA or any pertinent requirements in relation to the sharing of information as part of their business activities.

12.0 Documentation and Financial Record

Principle 8:

Insurance brokers shall not withhold from clients any written evidence or documentation relating to the contract of insurance. The contract documentation must be provided to all parties within a reasonable period of the client's risk inception or the client's order to bind, whichever is later.

- 12.1 The Labuan insurance broker's cover note or counter-signed copy of the placement slip is the bare minimum documentation necessary at the inception of a risk and shall not be treated as the final document. The Labuan insurance broker must provide its client with all insurance policies duly signed by the transacting parties.
- 12.2 The Labuan insurance broker must verify these documents as soon as they are received to ensure that they conform to the insurance placement terms and conditions as agreed earlier. Such documents shall be given to and received by the client the earlier between:

- 12.2.1 the timeline as specified in the terms of business agreement with clients; or
- 12.2.2 30 days of the client's risk inception or the client's order to bind, whichever is later.
- 12.3 It must be recognised that a duly executed insurance contract is the final and permanent record of the agreement reached by the client. It serves as the basis for assessing the extent of insurance potentially recoverable from the insurers or takaful operators.
- 12.4 Labuan insurance brokers are required to carry out timely reconciliation of their records against their clients' at least on half-yearly basis so as to ensure consistency and relevance.

13.0 Compliance with Laws and Regulation

Principle 9:

Insurance brokers must conduct their operations in line with laws and regulations of the jurisdiction where they operate in.

- 13.1 Labuan insurance brokers shall maintain knowledge of and comply with applicable laws, rules and regulations relevant to their business activity, including this Guidelines and other relevant guidelines issued by Labuan FSA as well as the regulatory requirements of the jurisdictions where it is authorised to operate in. In this regard, such compliance expectation of a Labuan insurance broker includes for it to obtain all necessary approvals and authorisation from the authorities in the markets that it intends to operate in.
- 13.2 Labuan insurance brokers shall take all reasonable steps, including the establishment of internal procedures, to ensure compliance with all applicable laws, rules and regulations relevant to their business activity.
- 13.3 Labuan insurance brokers that provide the broking services for takaful operators must ensure compliance with Shariah principles.

SECTION II: ROLES OF AN INSURANCE BROKER

14.0 Reinsurance Placement Process

Principle 10:

Reinsurance brokers shall act promptly on instructions from clients. This includes providing sufficient information pertaining to the placement including the agreed terms to the clients.

- 14.1 A Labuan reinsurance broker must act strictly on the instruction and terms of reference dictated by the client by not placing the reinsurance without the instruction of a particular client and, thereafter, find a helpful insurer to front the business.
- 14.2 Although the client is responsible to ensure that all material facts are conveyed to the reinsurer, in instances where the Labuan reinsurance broker compiles the underwriting information, the Labuan reinsurance broker must fully disclose the information to the client in the same form it would be communicated to the reinsurer, and obtain the agreement of the client to place the reinsurance before an approach is made to the reinsurer. The respective brokers are required to make full disclosure of the details of the reinsurance contracts to the client.
- 14.3 Labuan reinsurance brokers shall provide the clients all information pertaining to the reinsurance arrangement, and any changes thereafter must be advised at the earliest opportunity. As professional intermediaries, Labuan reinsurance brokers shall remain independent and offer the best professional advice to their clients.
- 14.4 Labuan reinsurance brokers must always maintain their direct accountability to their clients, and exercise utmost care in ensuring that the interests of their clients are protected.
- 14.5 A Labuan reinsurance broker must ensure that its clients receive sufficient information on the terms quoted to them, commission or brokerage payable, reinsurance terms quoted by the reinsurers and reinsurance brokerage payable.
- 14.6 Where reinsurance is placed with different reinsurers at different terms, the placement slip shall be carefully worded to prevent any arguments alleging misrepresentation at a later date. The client must be informed in writing about the terms agreed with each set of reinsurers by the Labuan reinsurance brokers.
- 14.7 Labuan reinsurance brokers shall not independently change the nature or value of a transaction routed through them. Where the original order to reinsure is received on a surplus proportional basis, the Labuan insurance broker shall not internally convert the placement to an excess of loss basis. However, the

Labuan reinsurance broker may discuss the advantages of excess of loss reinsurance with the client and seek to have the order modified. Particular attention shall be paid to reinstatement provisions and the costs involved.

15.0 Security Screening

Principle 11:

Reinsurance brokers shall facilitate clients in exercising due care and diligence at the time of recommending the reinsurers to their clients having regard to the reinsurers' respective financial security rating and the capabilities of the co-broking counterparty, where applicable.

- 15.1 In selecting the reinsurers, qualitative considerations as highlighted in the *Guidelines on General Reinsurance Arrangements and Sound Practices* which came into effect on 1 April 2013 shall be taken into account to ensure that reinsurance security is not compromised.
- 15.2 Every Labuan reinsurance broker shall have within its office the necessary mechanism for verification of the financial security of reinsurers recommended. The Labuan insurance broker must ensure that its co-broking counterparty (if any) has the capabilities to undertake such financial security screening.
- 15.3 The share of liability placed with each reinsurer shall be consistent with the reinsurer's financial capacity and resources in accordance with the requirement specified in the *Guidelines on General Reinsurance Arrangements and Sound Practices*.
- 15.4 Labuan reinsurance brokers must promptly furnish the client with any information required about any reinsurer. Accordingly, the Labuan insurance broker must also comply with and act upon specific requests of the client as to initiate, transfer or cease reinsurance placements with any particular reinsurer.

16.0 Administration of Reinsurance Balances

Principle 12:

In the course of carrying out their business, reinsurance brokers may receive monies from clients for the payment of premiums to reinsurers or from reinsurers in respect of claims or refunded premiums for onward payment to clients. Under such circumstances, reinsurance brokers are required to have sufficient safeguards in place to manage and protect their clients' monies.

- 16.1 The Labuan reinsurance broker must hold reinsurance balances separately from its own funds. To ensure proper control, Labuan reinsurance brokers must

maintain a separate designated bank account. Monies in the designated account will be held in trust by the Labuan insurance broker for its clients.

- 16.2 A lien or claim on, or right to set-off the monies in any account established for clients shall be void unless the monies are for fees due and owing to Labuan reinsurance brokers. Labuan reinsurance brokers are strictly prohibited from utilising monies received from clients for other than their intended purposes.
- 16.3 Labuan insurance brokers shall not offset any money received which is due to their clients with the amount due from the clients to any third parties.
- 16.4 Labuan insurance brokers are required to observe the requirement of the *Guidelines on the Treatment of Client Monies for Labuan Insurance and Takaful Brokers*.

17.0 Intermediary Fraud Prevention and Detection

Principle 13:

The insurance brokers shall take effective measures to deter, prevent, detect, report and remedy fraud in insurance intermediation activities.

- 17.1 Labuan insurance brokers shall take all reasonable steps to meet the fit and proper person requirements and apply adequate safeguards for the sound conduct of business.
- 17.2 The terms of business agreements between Labuan insurance brokers and their clients at the minimum shall confirm that:
- 17.2.1 the introduction of business to clients pursuant to the agreement does not breach any other legal obligation or the rules of any authority on any relevant jurisdiction;
- 17.2.2 at all times during the term of the agreement, the Labuan insurance brokers will maintain all obligatory licences, authorisations or registrations and comply with all applicable laws and regulations of the jurisdictions where they operate in; and
- 17.2.3 its compliance with the client's anti-fraud policies, procedures and control.
- 17.3 Taking cognisant of their intermediation roles, it is imperative that Labuan insurance brokers comply with the requirements of the *Guidelines on Anti-Money Laundering and Counter Financing of Terrorism (AMLCFT) - Insurance and Takaful Sectors* and any other AMLCFT requirements issued by Labuan FSA.