

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2018 [Act No. • of 2018]

**FAIR TREATMENT OF CLIENTS AND POLICYHOLDERS BY REGISTERED
INSURANCE INTERMEDIARIES**

Standard No. INS.S. 2.7

issued by NAMFISA under section 410(3)(v) of the Financial Institutions and Markets Act, 2018

Definitions

1. (1) In this Standard unless the context indicates otherwise—
 - (a) “Act” means the *Financial Institutions and Markets Act, 2018* [Act No. • of 2018], and includes the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
 - (b) “point of sale” means anytime the policy information is discussed from the first contact with the client until the time of the conclusion of the deal.

- (2) Words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including without limitation, the following:
 - (a) as defined in section 1 of the Act—
 - (i) affiliate;
 - (ii) client;
 - (iii) NAMFISA;

 - (b) as defined in section 4 of the Act—
 - (i) insurance;
 - (ii) insurance advice;
 - (iii) policy
 - (iv) policyholder;
 - (v) premium;
 - (vi) registered insurer;
 - (vii) registered reinsurer.

- (c) as defined in section 53 of the Act—
 - (i) corporate insurance agent.
 - (ii) corporate insurance broker;
 - (iii) registered insurance agent;
 - (iv) registered insurance broker; and
 - (v) registered insurance intermediary. and

2. This Standard applies to all registered insurance intermediaries, corporate insurance broker corporate insurance agent and registered insurers and registered reinsurers..

General requirements that the information given should comply with

3. A registered insurance intermediary must at all times comply with—
- (a) Standard No. GEN.S. 9.9 – Code of Conduct;
 - (b) Standard No.INS.S. 2.10 –Point of Sale Information to be provided by registered insurers, registered insurance agents and registered insurance brokers to policyholders and potential policyholders;
 - (c) Standard No.GEN.S. 9.17- the description of plain language for the purposes of section 29; and
 - (c) the written code of conduct put in place by—
 - (i) the registered insurer, registered insurance broker or registered insurance agent, corporate insurance agent, corporate insurance broker as the case may be, by whom the registered insurance intermediary is employed or to whom the registered insurance intermediary is contractually bound; or
 - (ii) the registered insurance intermediary where that person is an individual and not employed or contracted by a registered insurer or another registered insurance intermediary.
4. A registered insurance intermediary must ensure that—
- (a) insurance advice given to a client and potential policyholders is suitable and takes account of the circumstances of the client;

(b) client, policyholders and potential policyholders are provided with such information, illustrations, explanations and responses to questions as may be sufficient for them to evaluate the meaning and importance of the insurance advice being offered, having careful regard for the client's, policyholder's and potential policyholder's knowledge of the subject matter and ability to analyse and assess it before, during and after point of sale; and

(c) clients, policyholders and potential policyholders do not face unreasonable barriers to changing a policy, switching registered insurers or registered insurance brokers, submitting a claim or making a complaint.

General conduct

5. (1) A registered insurance intermediary must not—
- (a) use any illustration, circular, memorandum, statement or other publication that misrepresents, or by omission is so incomplete that it misrepresents the terms, policy benefits or advantages of any policy issued or to be issued;
 - (b) make any false or misleading statement as to the terms, policy benefits or advantages of any policy issued or to be issued;
 - (c) make any incomplete and selective comparison of any policy with that of any other registered insurer for the purpose of inducing or intending to induce a policyholder to lapse, forfeit or surrender a policy;
 - (d) make any payment, allowance, give any gift or any offer to pay, allow or give, directly or indirectly any money or thing of value to lure any potential policyholder to purchase insurance or to doing something;
 - (e) engage in any conduct resulting in unreasonable delay in, or resistance to, the fair adjustment and settlement of claims;
 - (f) make the issue or variation of a policy conditional on the client, policyholder or potential policyholder having or purchasing another policy;
 - (g) make or attempt to make, directly or indirectly, an agreement with a client, policyholder or potential policyholder making an application for insurance as to the premium to be paid for the policy that is different from the premium set out in the policy;
 - (h) pay, allow or give, directly or indirectly, a rebate of all or part of the premium stipulated in a policy to a policyholder or potential policyholder, or offer or agree

to do so, including allowing or giving, directly or indirectly any consideration or thing of value that is intended to be in the nature of such a rebate;

- (i) in connection with—
 - (i) a request for a quotation or an application for insurance made to a registered insurer that is an affiliate of the registered insurer by whom the registered insurance broker is employed or to whom the registered insurance broker is contractually bound; or
 - (ii) an offer by an insurer that is an affiliate of the insurer by whom the registered insurance broker is employed or to whom the registered insurance broker is contractually bound to renew an existing policy,

fail to provide the lowest rate available, within the meaning of sub-clause (2), from the insurer by which the registered insurance broker is employed or to whom the registered insurance broker is contractually bound or from any registered insurer that is an affiliate of that registered insurer;

- (j) solicit or demand a referral fee, directly or indirectly, from or from a person who provides insurance services to or for the benefit of a client, policyholder or potential policyholder who claims payment under a policy or when an application is made for a policy;
- (k) accept a referral fee, directly or indirectly, from a person who provides insurance services to or for the benefit of a client, policyholder or potential policyholder who claims payment under a policy;
- (l) charge an amount in consideration for the provision of insurance services to or for the benefit of a client, policyholder or potential policyholder who claims payment under a policy;
- (m) require, request or permit a client, policyholder who claims payment under a policy, to sign, before it has been completed in full, a claims form or other document;
- (n) make a statement by or on behalf of a registered insurer for the purposes of an adjustment or settlement of a claim if the intermediary knows or ought to know that the statement misrepresents or unfairly presents the findings or conclusions of a person who conducted an examination into the happening of the event giving rise to a claim; and
- (o) engage in “tied selling” within the meaning of section 23(1) of the Act.

- (2) The reference in sub-clause (1)(i) to the “lowest rate available” is a reference to the lowest rate available having regard to all of the circumstances, including the means of distribution through which the quotation, application or offer is made.