Insurance and Pensions Commission (IPEC)

Market Conduct Framework for Insurers, Insurance Intermediaries, Pension Funds and Pension Fund Administrators

December 2024

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1. AUTHORISATION

This Guideline is issued in terms of section 5(3) of the Pension and Provident Funds Act [Chapter 24:32] and section 6 of the Insurance Act *[Chapter 24:07]*. The Guideline is consistent with Insurance Core Principle 19, which requires fair treatment of customers by both insurers and intermediaries before, during and after a contract is entered into until its termination.

2. INTRODUCTION

1.1. One of the key functions of the Insurance and Pensions Commission (IPEC), as enshrined in Section 5(c) of the Insurance Act [*Chapter 24:07*] and Section 5(1)(a) of the Pensions and Provident Funds Act [*Chapter 24:32*] is to promote and protect the rights, benefits, and other interests of pension scheme members, policy owners and beneficiaries.

1.2. In addition, Section 6(c) of the Insurance Act and Section 5(f)(i) of the Pensions and Provident Funds Act [*Chapter 24:32*] mandate the Commission to formulate standards and practices in the conduct of insurance and pensions business.

1.3. The purpose of this Market Conduct Framework is to set out IPEC expectations regarding the market conduct of insurers, insurance intermediaries, pension funds and pension fund administrators in the facilitation of a sustainable, fair, and sound financial environment for customers and other insurance and pensions industry players.

1.4. Given that practices by insurance companies and pension funds have an impact on policyholder and pension scheme members' confidence and trust, financial inclusion, poverty reduction, social well-being, and the reputation of the country at large, it is imperative that a sound and fair environment is maintained. Unfair market conduct practices in the insurance and pensions industry can be a source of low confidence, low uptake of insurance and pensions products and increases in consumer complaints, thus undermining efforts to improve financial inclusion and grow insurance and pensions penetration.

1.5. IPEC has made some progress on market conduct regulation, but these initiatives can be substantially improved. The development of a market conduct framework will facilitate fair treatment of customers, thereby minimising poor customer outcomes.

1.6. The development and implementation of a market conduct framework is important for the safety and soundness of the insurance and pensions industry, given that market regulation complements financial solvency regulation. Market conduct deficiencies and weaknesses inform the risk rating of insurers and pension funds, a key aspect of risk-based supervision, hence the need to develop and implement the Framework for the insurance and pensions industry

1.7. The need to provide industry with guidance on what constitutes acceptable market conduct practices and fair treatment of policyholders and pension scheme members is important for the Commission.

3. OBJECTIVES

3.1 The objectives of this Market Conduct Framework are to:

i. Set out the expectations of IPEC regarding acceptable market conduct practices and fair treatment of policyholders and pension scheme members by insurers, pension funds and insurance and pensions value chain players.

ii. Guide insurers, pension funds and other insurance and pensions value chain players on the adoption and implementation of proper market conduct practices, policies, and procedures to foster a sustainable, fair, and sound financial environment.

iii. Mitigate market conduct risks posed by the increasing overlap in activities across all financial institutions, focusing on the insurance and pensions industry.

3.2 The requirements for acceptable market conduct practices help to:

i. protect policyholders and pension scheme members and promote fair consumer outcomes.

ii. build public trust and consumer confidence in the insurance and pensions industry.

iii. discourage pension funds, pension fund administrators, insurers, and insurance intermediaries from adopting unsustainable business models that pose reputational risk, thereby **complementing sound risk management and solvency standards**; and

iv. support a sound and resilient insurance and pensions sector by fostering a level playing field in terms of establishing a basis on which pension funds, pension fund administrators, insurers and intermediaries can compete while maintaining business practices that support the fair treatment of customers.

3.3 The Framework seeks to equip the Commission to mitigate risks that have prejudiced policyholders and pension scheme members. The forward-looking approach of the framework seeks to pre-empt such prejudice and proactively identify and respond to emerging conduct risks.

4. EFFECTIVE DATE

4.1 The Framework shall come into effect on 01 January 2025.

4.2 The Commission reserves the right to amend the Guidelines and to take such necessary remedial or regulatory action against non-compliant entities /persons.

5. DEFINITION OF KEY TERMS

5.1 For the purposes of these Guidelines, an advertisement will have the following meaning:

i. publication in a newspaper, magazine, journal, or other periodical.
ii. circulars, brochures, pamphlets, books, or other documents.
iii. indoor or outdoor display of posters or notices.
iv. radio, television, cinema, the internet, or other media, including social media; and
v. letters/fax transmissions to customers/potential customers.

5.2 "Insurer" includes "reinsurer," and "insurance" includes "reinsurance.

5.3 "Pension fund" includes "provident fund", which means a fund whose principal object is to provide for the payment of a pension- or lump sum to a person who, on his or her retirement, is or has been a member of the fund "Pension scheme member", in relation to a fund means any person who is admitted to the membership of a retirement benefit scheme;

5.4 "policyholder" or "policyholders" include current and past policyholders, third-party claimants and beneficiaries to whom an insurer is contractually obligated to fulfil its insurance obligations.

5.5 "Market conduct" is defined as how an insurer/pension fund designs its products and services and manages its relationship with customers and the public and/or how an insurance intermediary or pension fund administrator manages its relationship with customers policyholders/customers and the public.

5.6 "Nature" includes the relationship between the policyholder and the insurer or characteristics of the business written.

5.7 "Scale" includes size aspects such as the volume of the business written or the size of the balance sheet in conjunction with materiality considerations (e.g., an assessment of the impact of the insurer's failure); and

5.8 "Complexity" includes items such as organisational structures and ease of information transmission, multifaceted business or business lines, and skill level required to assess the risks of contractual provisions properly.

5.9 While prudential supervision is focused on the safety, soundness and reliability of insurers and intermediaries, market conduct supervision is concerned with how insurers, pension funds and intermediaries safeguard (or at least do not infringe on) the interests of policyholders, pension scheme members, investors or other market participants. This is achieved in terms of transactional fairness, access to reasonably symmetric information, market integrity and maintenance of fair competition.

6. PROPORTIONALITY PRINCIPLE

6.1 The Commission has transitioned from rule-based supervision to risk-based supervision. In this regard, the Commission acknowledges that pension funds, pension fund administrators, insurers and insurance intermediaries have different risk profiles on account of differences in the nature, scale and complexity of their business models. As such players with high-risk profiles are expected to have more comprehensive governance and risk management frameworks than those of a lower-risk profile to conduct sound and prudent business practices.

6.2 Accordingly, the Commission will assess each pension fund, fund administrator, insurer or intermediary's adherence to the Guidelines proportionately relative to its nature, scale and complexity.

7. GUIDING PRINCIPLES

7.1 Insurers, pension funds and insurance and pensions value chain players are, therefore, required to appropriately integrate the provisions of these Guidelines in their policies, procedures, processes and practices.

7.2 All players should take note that the requirements of these Guidelines are not exhaustive but are meant to provide the minimum standards that should be observed.

7.3 All insurance and pensions value chain players' websites are required to display prominently notifications regarding these Market Conduct Guidelines. Such notification must include a copy of or a link to the Guidelines.

Insurers

7.4 An insurer shall furnish its policyholders with free, clear, impartial, and unambiguous information through appropriate platforms, and keep them appropriately informed of all relevant information relating to the contract before, during and after onboarding.

7.5 All insurers shall prioritise policyholders' interests in the provision of insurance products and services and establish mechanisms to prevent fraudulent activities and unethical business conduct.

7.6 Insurers must train their agents and brokers on ethical selling techniques and the importance of serving policyholders' best interests.

7.7 Insurers are encouraged to develop products that meet the evolving needs of consumers while remaining compliant.

7.8 An insurer is required to ensure the policy document issued to a policyholder is communicated in writing as soon as possible indicating the following:

a. Relevant, meaningful and comprehensive information about the insurer and the contract outlining the following, where applicable.
   i. Policy terms, conditions, and exclusions.
   ii. Cooling-off or free-look period.
   iii. Cancellation and termination policies.
   iv. Policyholder rights and obligations.

b. Promised benefits and risks to the policyholder in a fair and balanced way.

c. Obligations of all the parties involved, including those for the insurer, intermediaries and policyholders clearly and understandably, for the duration of the contract.

d. Existence, duration and conditions relating to the right to cancel.

e. Claims and complaints handling and other contractual arrangements. including the appropriate contact points to submit claims, complaints and dispute claims.

f. Duty of the policyholder to disclose material information including frequency of such disclosures.

   In most cases, policy terms and conditions, often referred to as the 'small print,' contain details of policy exclusions, restrictions and limitations. Often, policyholders do not read and understand the small print, which is a recipe for trouble in the event of a claim.

   In such cases, claims disputes often arise for one or two reasons. Firstly, the customer has not read the policy exclusions, restrictions and limitations in enough detail. Secondly, the policyholder has read the terms and conditions but has a completely different interpretation from that of the insurer. Neither scenario is good for the insurance market as either could result in a dispute at the claim stage.

In this regard, the use of legal and technical language should be used only when it is unavoidable. Policy wordings should use plain language as far as possible and shall use font size 12 for eligibility.

7.9 Once the policy document has been communicated to the policyholder with the minimum contents highlighted above, the insurer shall ensure that there is consent by the policyholder and shall keep a signed policy document during and after the contract life.

Brokers / Agents

7.10 An insurance intermediary should provide clear and fair advice that is not misleading and does not amount to mis-selling. The advice should be suitable taking the policyholder`s circumstances into account. The intermediary should take reasonable care to ensure its advice and discretionary decisions are appropriate to any policyholder that relies on its judgment.

7.11 All insurance agents must operate with the highest levels of honesty and integrity in all business dealings.

***Transparency* and Marketing**

7.12 Consumers should at all times be properly informed about an insurance product or service on offer to make effective and informed decisions. In this regard, insurance intermediaries should not mislead consumers into making misinformed decisions. Consumers should be able to compare the value and cost of insurance products and make informed choices.

Loss Adjustors

7.13 Loss adjustors should always be objective and impartial in all their activities. A loss adjustor should not conspire with any insurer to facilitate the insurer to avoid settlement of any claim.

Advertisements

7.14 An insurer shall not issue or cause to be issued any misleading or objectionable advertisements. All advertising and promotional literature must be clear and provide accurate information about the products and services being provided. All advertisements should not in any way be misleading because of inaccuracy, uncertainty, exaggeration, omission or otherwise. The identification of any insurance product should not create an impression that a product has certain characteristics that it does not have.

7.15 An insurance company or intermediary shall not take advantage of a policyholder in engaging in unfair business practices if they know or should reasonably be expected to know that the policyholder: (a) is unable to defend their own interests; or (b) is not reasonably able to comprehend the nature, character, language, or consequences of the policy or proposal.

7.16 Advertisements should indicate the nature of the contract being offered, and provide information on any limitations on eligibility, and the terms relating to policy termination, cancellation, and lapses. If alternatively, any advertisement is short or general in content, explanatory material disclosing full details of the offer should be readily available to the prospective policyholder before a binding contract is entered into.

7.17 Advertisements should present honest and balanced product circumstances. Policy exclusions should also be highlighted to balance the 'headline' benefits, for reality and not based only on an optimistic view of events.

7.18 Each insurer must ensure that there is 'truth in advertising' so that prospective policyholders are not misled by its marketing practices and communications during promotions, advice, sales and after-sales activities. The insurer must pay due regard to its prospective policyholders` information needs and communicate in fair and appropriate ways that are not misleading.

8. CLAIMS HANDLING

8.1 Insurers are required to develop clear and transparent claim submission processes, with well-defined timelines for acknowledgement, assessment, and payment, including claims and dispute resolution mechanisms. All claims are supposed to be processed within the stipulated turnaround times.

8.2 The procedure should guarantee that claimants are promptly informed of the status of their claims throughout the different claim stages. All claims management employees should have ethical and compassionate handling training. The procedure will guarantee that claimants are promptly informed of the status of their claims.

8.3 In addition to the traditional claims resolution procedures, each insurer shall establish claims dispute resolution procedures, which shall follow a balanced and impartial approach. Such procedures should:

i. Avoid being overly complicated.

ii. Ensure that the staff handling claims disputes are experienced in claims handling and appropriately qualified.

8.4 Each insurer must maintain sufficient complaint-handling procedures and effectively communicate these procedures to policyholders in order to demonstrate their commitment to promptly resolving issues. In compliance with the IPEC Treating Customers Fairly Framework, each insurer must also keep a register for complaints and take the necessary actions to resolve and dispose of concerns.

8.5 In the event of a claim rejection or repudiation, the insurer shall keep a record of such and shall report to the Commission quarterly on the number of claims rejected or repudiated, together with the reasons thereof.

Pension Fund/ Pension Fund Administrators

8.6 All pension funds and pension fund administrators shall prioritise the interests of pension scheme members in the provision of retirement products and put in place mechanisms to prevent unethical business conduct.

8.7 Pension funds and life insurers in their capacity as pension fund administrators are mandated to develop products that meet the needs of pension scheme members.

8.8 All retirement products are supposed to be registered with the Commission before they are offered to consumers. As part of the registration requirements, Pension funds and life insurers shall submit evidence that enough research on the consumers' needs has been done and that the product is meeting such needs.

8.9 Before onboarding pension scheme members, the pension funds and pension fund administrators shall ensure that they have all the details relating to the member and the member's respective beneficiaries to enhance members' communication to reduce incidences of unclaimed benefits.

8.10 The information that pension funds and pension fund administrators should have include the following: -

a) First name and surname of the member.
b) Identity number.
c) Date of birth.
d) Sex.
e) Physical address,
f) Contact number.
g) Date of joining the fund.
h) Contribution history,

8.11 Information relating to a to f above should be kept both for the principal members and for the beneficiaries.

8.12 If a fund or member has transferred to another administrator or fund, the transferor should ensure that the information on 7.23 has been handed over to the transferee.

Member Communication

8.13 When the member's benefits have fallen due, for example, due to the attainment of the retirement age, retrenchment or in any other way, it is the Pension funds and/or pension fund administrator is obligated to contact the member and advise him/her of the benefits which have fallen due.

8.14 As per the requirements of the Pensions and Provident Funds Act [*Chapter 24:32,]*, the fund shall

a. a copy of the rules of the fund upon joining the fund, and of any amendment to them as and when such amendments have been registered; and
b. within six months after the end of the financial year the individual members' annual benefit statement with the minimum disclosures as may be prescribed from time to time.

8.15 A fund shall, within three months, and at its own expense, make accessible to members the following information

a) a copy of the fund's annual financial statements.
b) a copy of every valuation or other report made by the fund's valuator.
c) details of any reserve set aside for members when they leave the fund.
d) an assessment of the fund's investment performance; and
e) the fund's investment policy statement.

CROSS-CUTTING ISSUES

9. COMPLAINTS HANDLING

All insurers, pension funds and pension funds administrators are required to:

i. have robust and easily accessible complaints management systems, with multiple channels for customers to submit their complaints.
ii. have clear complaint handling procedures, including timely acknowledgement, investigation, and provision of a final response.
iii. Have dedicated staff dealing with complaints handling, with a clear complaints resolution ladder, indicating how complaints are escalated and resolved within the entity.
iv. Have a record of all complaints received, a report to be sent to the Commission quarterly on all complaints received, resolved and outstanding. A comparison should also be done on complaints received in the current reporting period against previous periods.
v. ensure customers are informed of their right to escalate unresolved complaints to IPEC or the Consumer Protection Commission.
vi. Perform a root cause analysis on complaints received and advise the Commission on changes effected based on the outcomes of the root cause analysis. In line with the Treating Customers Fairly framework requirements, which require TCF issues to be driven by the board, the complaints' root cause analysis shall be discussed at the board level, with the interventions communicated down to lower levels.

10. SOCIAL MEDIA MONITORING

10.1 Each insurer shall develop a social media monitoring or social listening data collecting tool that specifically focuses on consumer-generated data. Monitoring of social medial consumer generated data allows the effective gathering of the collective views of consumers by gathering insights into their experiences.

10.2 The tool monitors what consumers post on social media platforms, such as Facebook, and X, as well as on digital forums, blogs and websites. It allows insurers to proactively remain relevant on current developments in their product offerings in the market and spot emerging trends in consumer protection risks in real-time.

11. DATA PROTECTION AND PRIVACY

11.1 Information about policyholders must be protected from unauthorised access and data breaches by insurers and insurance intermediaries. All parties involved in insurance must make sure that data collection and use procedures adhere to relevant data privacy legislation.

11.2 Insurers are required to report to IPEC any policyholder data breaches within three (3) days in line with the Cyber Security and Data Protection framework issued in terms of Circular 26 of 2023.

12. DISCIPLINARY MEASURES

12.1 To ensure robust and effective market conduct, Insurers, pension funds and intermediaries shall establish clear consequences for market conduct breaches, including disciplinary action, retraining, or termination. Insurers shall also encourage whistleblowing and protection for employees who report unethical behaviour.

12.2 Each insurer must routinely train staff and agents on the framework's expectations and guiding principles to guarantee that workers stay up to date with emerging trends and advancements in the insurance industry. Programs for staff training must be revised to take into account modifications to laws and market dynamics.

13. CONSUMER EDUCATION

13.1 Better market conduct necessitates policyholders who are knowledgeable and suitably educated about financial services and products, in addition to the requirement for enhanced policyholder redress mechanisms. In order to increase client capability, this calls for efficient financial education programs.

13.2 All insurers shall, accordingly, put in place mechanisms to inform and educate their policyholders of their responsibilities to inter alia:

i. disclose all relevant information as part of any binding insurance contract to facilitate continuous risk profiling and monitoring and to inform the possibility of any claims likely to occur.

ii. read and understand the terms and conditions of their insurance products and become familiar with the responsibility for any losses suffered as a result of actions undertaken without reasonable care.

iii. assist insurers in performing identification and verification steps or other legal obligations, including those pertaining to Know-Your-Customer ('KYC') and Anti-Money Laundering and Combatting the Financing of Terrorism ('AML/CFT').

iv. Provide educational resources to consumers about insurance products, rights, responsibilities, and the claims process.

v. Foster an understanding of insurance principles and promote financial literacy.

14. IMPLEMENTATION AND OVERSIGHT

Governance Structures

14.1 To ensure self-regulation in the application of the Market Conduct Framework, each insurer shall establish an oversight committee responsible for monitoring compliance with the provisions of these Guidelines.

14.2 Each insurer shall also designate internal specific roles focused on market conduct and ethics.

15. MONITORING AND EVALUATION

To assess adherence to market conduct requirements, insurers must perform audits and assessments. To identify areas for improvement, the market conduct and evaluation audits will employ consumer feedback, complaints, and market research.

16. MARKET CONDUCT OUTCOMES

16.1 These Market Conduct Guidelines complement the IPEC Treating Customers Fairly Framework. In this regard, insurers shall implement practices, policies and procedures that would facilitate the following outcomes:

i. an all-inclusive and competitive marketplace.

ii. suitability of products and services to customers.

iii. transparency in marketing through adequate, accurate and appropriate disclosures.

iv. professional ethics and standards in the handling of customer complaints and conflicts.

v. due care and diligence over the entire product life cycle/insurance contract; and

vi. safety and security of customers' assets, information and data.

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

17. MARKET CONDUCT POLICY STATEMENT

17.1 To safeguard policyholders, promote market integrity, and guarantee a fair and competitive operating environment, insurers need a strong framework for market conduct. Industry participants' adoption of the market conduct framework demonstrates their dedication to moral behaviour and ongoing development in establishing enduring bonds with policyholders in risk management, which in turn promotes economic growth.

17.2 To ensure good market conduct outcomes, each insurer, pension fund and administrator shall develop and publish a market conduct policy statement detailing fair **market conduct** principles in the design of new products.