

Guidance Note
on the
Use of Internet for Insurance Activities

Office of the Commissioner of Insurance

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Introduction

1. The Internet has become the prime driver of contemporary electronic commerce. The increasing use of Internet in the business world has, to a varying degree, broadened and redefined the scope of business transactions and services. The insurance industry is by no means lagging behind in engaging the Internet as an alternative medium for conducting business particularly in marketing of insurance products and servicing of clients.

2. Different types of insurance-related websites, which are launched by authorized insurers, insurance intermediaries or other parties, have emerged in the market. Some of the websites cover one authorized insurer or a group of authorized insurers, whereas others are in the form of a supermarket in which a number of authorized insurers participate. The services provided are wide-ranging, such as introduction of authorized insurers and their respective products, brief comparison of a particular type of product offered by different authorized insurers, collection of premiums, handling of claims and provision of information on an insurer's credit rating, etc. It is noticed that there are some other websites which provide affiliated insurance services whilst in the course of conducting the main business which is non-insurance in nature.

3. The Insurance Authority ("IA") notes that the Internet is one of the channels for authorized insurers and insurance intermediaries, etc. to solicit business and to provide services to existing and potential policy holders. Hence, in conducting insurance business over the Internet, the parties concerned have to comply with the Insurance Companies Ordinance (Cap. 41) ("Ordinance") and other regulatory guidelines or industry rules in the same manner as conducting business in the conventional way. Taking into consideration the special features of the Internet which distinguish it from the conventional distribution channels, this Guidance Note is issued to draw the attention of different service providers to the special points they need to be aware of when engaging in internet insurance activities. It is the aim of this Guidance Note to better protect the insuring public and to ensure the healthy

development of the insurance industry in the new information technology era. The scope of this Guidance Note covers the internet insurance activities of all service providers to the extent that such activities fall within the jurisdiction of Hong Kong. For the avoidance of doubt, this Guidance Note only applies to the use of Internet by the service providers in conducting activities or transactions with existing and potential policy holders.

Interpretation

4. In this Guidance Note, unless otherwise specified, insurance-related expressions shall have the same meanings as given to them in the Ordinance. Other terminologies shall have their literal meanings. The terms “insurance activities” and “service providers” shall have the meanings appended below :

(a) *Insurance Activities*

This term refers to all kinds of insurance-related activities conducted wholly or partially over the Internet by a service provider. Examples include but not limited to the following :

- (i) displaying information about authorized insurers, insurance intermediaries and their insurance products or services;
- (ii) advising existing or potential policy holders on the terms of their insurance policies or their insurance needs, etc.;
- (iii) quoting insurance premiums for a particular type of insurance product offered by one or more authorized insurers;
- (iv) comparing the respective premiums and terms of the same type of insurance product of different authorized insurers;

- (v) soliciting clients' personal information with a view to providing insurance services to them;
- (vi) collecting insurance premiums;
- (vii) issuing or renewing insurance policies;
- (viii) providing channel for policy holders to make enquiries, update personal particulars or report claims, etc.;
- (ix) handling complaints or insurance matters; and
- (x) making refunds, reimbursements or claims payments to clients.

(b) *Service Providers*

They are authorized insurers, appointed insurance agents, authorized insurance brokers, association(s) of underwriters approved by the IA or Lloyd's who provide services related to insurance activities conducted over the Internet.

Identity of Service Providers

5. A service provider shall explicitly provide information about itself in its own website or, if applicable, in the third party website(s) through which it provides insurance services. In particular, the service provider shall clearly state that it is an authorized insurer, an appointed insurance agent, an authorized insurance broker and the name of the approved body of insurance brokers of which it is a member, if applicable, an association of underwriters approved by the IA or Lloyd's.

6. A service provider shall also provide information whereby it can be contacted, including its full name, office address, e-mail address, telephone number and fax number.

Authorization Status

7. Regardless of the media used in conducting insurance business, no person shall carry on or hold himself out as carrying on any class of insurance business in or from Hong Kong except an insurer authorized under section 8 of the Ordinance, Lloyd's and an association of underwriters approved by the IA. Similarly, a person shall not hold himself out as an insurance agent or an insurance broker unless he is an appointed insurance agent or an authorized insurance broker as defined in section 2 of the Ordinance.

8. As the Internet is "borderless" in nature, insurance websites launched by service providers may be accessed by persons residing outside of Hong Kong. Likewise, persons residing in Hong Kong may also gain access to overseas insurance websites. To avoid any unintentional breaches of overseas insurance legislation arising out of cross-border internet transactions, a service provider shall state clearly in its website its authorization, registration or approval status, as the case may be, in Hong Kong and elsewhere, if any. Alternatively, it may set out conspicuously in a disclaimer the territory(ies) in which it does not intend to conduct insurance business.

9. As a general principle, insurance activities that are conducted **from outside of Hong Kong** over the Internet do not fall within the ambit of the Ordinance. However, if, through conducting such activities, a person carries on or holds himself out as carrying on insurance business or insurance intermediary business in or from Hong Kong, he shall be brought under the Ordinance. In determining whether those activities fall within the ambit of the Ordinance, the IA will consider the nature of the insurance activities as a whole and other factors such as :

- (a) whether advertisements about the relevant website have been made in the local mass media;
- (b) whether promotional or publicity activities have been conducted in the territory;
- (c) whether the sales materials as displayed on the Internet are directed at a particular group or groups of people residing in Hong Kong;
- (d) whether the contents of the website appear to target at the people residing in Hong Kong e.g. providing a local address for contact, quoting the premiums in Hong Kong Dollars, etc.;
- (e) whether the website contains a prominent disclaimer clearly indicating that the insurance products and services are not available to people residing in Hong Kong; and
- (f) whether reasonable measures have been implemented to guard against the acceptance of insurance applications from or provision of insurance services to people residing in Hong Kong e.g. ascertaining the potential policy holder's residence by obtaining such information as mailing address or telephone number prior to the provision of any services.

10. In respect of item 9(e) above, the insurance products and services are deemed not available to people residing in Hong Kong if the disclaimer clearly states that :

- (a) the insurance products and services are not available to people residing in Hong Kong;
- (b) the insurance products and services are available in the specified countries or places (excluding Hong Kong); or

- (c) the insurance products and services are available only in countries or places other than Hong Kong.

Security

11. A service provider shall take all practicable steps to ensure that :
- (a) a comprehensive set of security policies and measures that keep up with the advancement in internet security technologies shall be in place;
 - (b) mechanisms shall be in place to maintain the integrity of data stored in the system hardware, whilst in transit and as displayed on the website;
 - (c) appropriate backup procedures for the database and application software shall be implemented;
 - (d) a client's personal information (including password, if any) shall be protected against loss; or unauthorized access, use, modification or disclosure, etc.;
 - (e) a client's electronic signature, if any, shall be verified;
 - (f) the electronic payment system (e.g. credit card payment system) shall be secure; and
 - (g) a valid insurance contract shall not be cancelled accidentally, maliciously or consequent upon careless computer handling.
12. It is advisable for a service provider to display a security statement (i.e. a statement expressing that adequate security measures are in place) on its website to instil confidence in existing and potential policy holders.

Privacy of Client Information

13. In collecting, processing and storing clients' personal information over the Internet, a service provider shall take all practicable steps to protect the privacy of its clients' personal information against leakage and unauthorized access or use. It is important that a service provider shall comply with the Personal Data (Privacy) Ordinance (Cap. 486) at all times. For that purpose, a service provider is advised to refer to the relevant booklets issued by the Office of the Privacy Commissioner for Personal Data, including the "Personal Data Privacy and the Internet - A Guide for Data Users" and "Preparing On-line - Personal Information Collection Statements and Privacy Policy Statements".

Form of Communication

14. A policy holder who agrees to conduct a transaction by electronic means may subsequently choose to communicate or conduct other transactions with the relevant service provider by non-electronic means. Therefore, unless with the express or implied consent of a policy holder, the service provider shall not inform the policy holder of certain events merely by electronic means. For example, the events which specifically require the response of the policy holders or may affect their interests. In any circumstances, there shall be effective communication between a service provider and its clients.

15. If the same notice is to be sent to two or more policy holders via the Internet, the service provider shall ensure that the notice does not contain any personal data for the sake of confidentiality. Besides, where e-mailing is used to deliver the notice, this shall be done in a way that each recipient of the notice is not aware of the identities of other recipients (e.g. by using the "Blind Copy To" option in delivery).

Sale of Insurance Products

16. A service provider shall take note of the following in the sale of insurance products over the Internet :

(a) *Sales Materials or Illustrations*

- (i) A service provider shall endeavour to ensure that the sales materials or illustrations displayed on the Internet contain accurate and up-to-date information which is written in plain language.
- (ii) If a sales transaction can be completed over the Internet, potential policy holders shall be provided with the necessary information such as :
- the name of the authorized insurer;
 - the major terms and conditions of the insurance policy offered, including the risks covered, and any significant or unusual restrictions or exclusions;
 - the premium of the insurance policy offered;
 - the client's duty to disclose information and the consequences of not disclosing material facts;
 - the period of the insurance cover; and
 - the governing law of the insurance policy.
- (iii) To assist a potential policy holder in making an informed decision, he or she shall be given an opportunity to access the full wording of the relevant insurance policy before the sale is completed.

- (iv) A service provider whose business relates to long term insurance business shall be additionally required to observe the guidance notes or illustration standards issued by the relevant regulatory authorities and industry bodies from time to time, including :
- Code of Practice for Life Insurance Replacement ^(Note 1)
 - Life Insurance Council Cooling-off Initiative ^(Note 1)
 - Code on Investment-Linked Assurance Schemes ^(Note 2)
 - Standard Illustrations of Non Unit-Linked Products ^(Note 1)
 - Illustration Standards for Universal Life (Non-Linked) Policies ^(Note 1)

(b) *Underwriting Policy*

- (i) A service provider, other than an insurance intermediary, shall have a prudent underwriting policy to process insurance applications submitted via the Internet. In particular, it needs to take practicable measures to ascertain the true identity of its clients.
- (ii) A service provider whose business relates to long term insurance business shall comply with the Guidance Note on Prevention of Money Laundering issued by the Office of the Commissioner of Insurance and shall report any suspicious transactions to the relevant authorities.

Note : (1) Issued by the Life Insurance Council, The Hong Kong Federation of Insurers
(2) Issued by the Securities and Futures Commission

(c) *Issue of Insurance Policy*

- (i) Any electronic insurance policies issued shall be dated and preferably in complete and full version. If an insurance policy is not provided in such version, a statement to this effect must be clearly made. In all cases, a copy of the insurance policy containing the comprehensive terms and conditions, whether in electronic, paper or any other form, shall be sent to the policy holder concerned.
- (ii) Any electronic insurance policies or documents shall be received in a readable and retainable form by the policy holder or other party who is entitled to receive the same. In this regard, the software format to be adopted by a service provider shall facilitate effective reading, printing and downloading of the said documents by the recipients. If special software is required for the purpose, the software shall be made available to the recipients.
- (iii) Any electronic insurance policies or documents delivered to a policy holder in respect of an insurance transaction shall be maintained by the service provider in electronic, paper or any other form. The service provider shall also be able, within a reasonable period of time, to provide an electronic or paper copy of the insurance policy or document to the policy holder upon his or her request.

(d) *Complaints Channels*

A service provider shall provide information (e.g. contact particulars) on the appropriate channels for complaints as listed below :

- (i) the customer services section of the service provider or, if no such section is established, the name of the person designated to handle complaints on behalf of the service provider;
- (ii) the Office of the Commissioner of Insurance;
- (iii) The Insurance Claims Complaints Bureau (in cases where the insurance products sold relate to personal insurance policies);
- (iv) Insurance Agents Registration Board;
- (v) The Hong Kong Confederation of Insurance Brokers; and
- (vi) Professional Insurance Brokers Association Limited.

(e) *Miscellaneous*

A service provider shall comply with the relevant provisions of the Electronic Transactions Ordinance (Cap. 553) in matters concerning, inter alia, digital signatures, presentation or retention of information in its original form and retention of information in electronic records.

Use of Third Party Websites

17. If a service provider conducts insurance activities through third party website(s), it shall ensure that :

- (a) its authorization, registration or approval status in Hong Kong and elsewhere, if any, shall be clearly stated in the website(s) as appropriate;

- (b) its insurance products, if applicable, as displayed on the website(s) shall be clearly identifiable from those of other service providers on the same website(s), if any;
- (c) the information related to it and its products, if applicable, which is displayed on the website(s) shall be authorized by it;
- (d) the relevant information shall be accurate and as up-to-date as possible;
- (e) in case monetary transactions are performed and clients' personal data can be accessed via the website(s), adequate security measures shall be in place to protect the interests of the clients and itself; and
- (f) subject to the type(s) of services provided, the role of the third party shall be clearly identified (e.g. acting as an insurance agent) and be properly appointed or authorized as appropriate.

18. Where enquiry or advisory services relating to contracts of insurance or insurance related matters are available on a third party website, these shall be handled by a service provider.

19. In engaging the services of a third party website, a service provider shall draw the attention of the operator of the website concerned to seek the IA's written consent under section 56A of the Ordinance if:

- (a) the operator uses the word "insurance" or "assurance" etc. in the domain name, website name or description(s) (which appears in the website) in the manner as specified in section 56A of the Ordinance;
- (b) the operator is carrying on business in or from Hong Kong under such domain name, website name or description(s); and

- (c) the operator is not a service provider.

Information from Other Websites

20. If a website contains information or data obtained from another website, care shall be taken not to infringe the copyright of the relevant persons. The prior consent of the copyright owner shall be obtained for any reproduction of the information or data of another website.

Review of Guidance Note

21. It is recognized that information technology is constantly evolving. This Guidance Note is promulgated based on the current use of Internet for insurance activities by the insurance industry. It will be regularly reviewed and revised in the light of developments in this regard.

Enquiries

22. For enquiries about this Guidance Note, please contact the Office of the Commissioner of Insurance. With regard to enquiries about the legislation, other than the Ordinance, referred to in this Guidance Note, please contact the relevant regulatory authorities (e.g. the Office of the Privacy Commissioner for Personal Data) or consult legal advisers.

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