020/NL/IRDA/06 15th Sep `06.

To
CEOs of All Insurance Companies &
The Principal Officers of All Broking Companies

GUIDELINES ON INSURANCE AND REINSURANCE OF GENERAL INSURANCE RISKS

With the abolition of tariffs in the near future, competition will extend not only to service matters but also to pricing of products. In order to ensure that the business is transacted along proper lines, it is important to set out the rules of conduct that should be followed by both insurers and brokers in the matter of insurance and reinsurance of general insurance risks, especially those with high sums insured.

Insurers are advised to ensure that the procedures as set out in these guidelines note are followed in their competition for business.

Attention of all licensed brokers is invited to the Code of Conduct specified in Schedule III of the IRDA (Insurance Brokers) Regulations 2002 and in particular, para 1 of the Code of Conduct. All brokers are hereby required to ensure strict adherence to the practice stated in this guidelines note and in the Code of Conduct. Prior approval of IRDA should be obtained by application supported by valid reasons for any variations from the practice stated here.

1. Where a client invites more than one broker to submit terms for its insurance requirement:

    (a) A broker shall not block capacity with one or more insurers in anticipation of being invited to quote terms for insurance requirements of a client, where the client has not yet decided as to which brokers should be invited to quote terms.

(b) Once the client has selected the brokers who should be invited to quote terms, all other brokers should withdraw from the market. They should also immediately advise any insurers with whom they have been in touch to propose terms, about their not being invited to quote terms.

(c) Brokers who are invited to quote terms should obtain a written appointment letter to develop terms. Where the client has given oral instructions to quote, the broker should record the fact of its being invited to quote terms, in a letter to the client. (Refer paras 2(f) and 2(h) of Code of Conduct).

(d) Every broker invited to quote terms should fully comply with para 4 of the Code of Conduct. The broker should clearly distinguish between information provided by the client and information provided by the broker based on its own study of the risk.

(e) Where the client has specified the terms of the insurance cover required by it, the broker shall develop terms on the basis specified by the client and not any other basis (which may be patched up without the knowledge of the client) to provide the required cover. However, it is open to the broker to discuss with the client and agree with the client to develop terms on any other basis.

(f) It is open to the broker to ask more than one insurer to quote terms. The broker shall furnish full information on a common basis to all the insurers. This does not prevent the broker from providing supplementary information to an insurer in response to questions raised by that insurer.

(g) Where an insurer is asked to quote terms by more than one broker in respect of the same risk, the insurer shall quote the same terms to all the brokers. However, if a broker seeks quotes from the insurer on a different basis, the insurer shall be free to quote terms on the basis requested by that broker without having to advise those terms to all the other brokers.

(h) Where an insurer is approached by a broker to quote terms for a particular account, the insurer should not approach the client directly to quote terms and eliminate the broker.

(i) Where a client has also asked an insurer to quote terms directly to it, the insurer may quote terms directly to the client and if any broker approaches it for terms, the insurer should inform the broker that it is quoting directly to the client.

(j) Where terms are developed on a “net rate” basis, the broker shall advise the client the full facts, namely, the net rate and the addition made for brokerage.

(k) Where the insurer needs to develop terms from the reinsurance markets before quoting its terms to the client, the insurer shall be free to use the services of any reinsurance broker of its choice.

(l) A composite broker shall not go to the reinsurance markets to develop terms in respect of cases referred to in (k) above, without the written prior authorization of the insurer invited to quote terms for the insurance. Paras 2(i) and 2(j) of the Code of Conduct are relevant in this connection. It is important to emphasise that placement of reinsurance is entirely within the purview of the insurer and neither the direct broker nor the client can direct the insurer where to place reinsurance and how much to reinsure. This does not prevent the client or the broker from enquiring about the insurer’s own retention on the risk and the reinsurances that it will place and the security rating of reinsurers to be used, as a part of its examination whether to accept the insurer for its insurance requirements.

(m) Where reinsurance terms are developed as part of the process of quoting terms for direct insurance, the broker who is instructed to develop terms shall truthfully communicate to the insurer on whose behalf the reinsurance terms are developed, the basis of the quotation, the rates and terms and the list of reinsurers with written lines and the extent of likely support at those terms.

(n) A composite broker or reinsurance broker shall not put conditions of minimum percentage of reinsurance placement as part of the quotation or allow such terms to be put in by the client or foreign co-broker or reinsurers. This does not prevent a lead reinsurer quoting terms subject to his being offered a minimum stated line on the risk. It shall be open to the insurer to instruct the broker not to offer the risk to a particular reinsurer or to specified reinsurersor specified markets .

(o) A broker shall not put up terms developed within its own office (desk quotes) but not received from an insurer, as insurance premium terms. If a broker is responding to an enquiry about the likely insurance cost, it should make it clear when indicating the premium cost that it is not a quotation but only a non-binding indication of the likely cost.

2. Where a client retains one broker to develop terms from several insurers:

   (a) The broker shall select the insurers to be invited to quote terms, entirely from the point of view of the client and in the best interests of the client.

   (b) The broker shall provide information on a common basis to all insurers invited to quote. However, it may provide further clarifications or additional information in response to queries of an insurer that is invited to quote.

   (c) The broker shall not first develop terms from foreign markets and then go round locating insurers willing to front the business at those terms.

   (d) The broker shall not go round looking for insurers to be invited to quote terms, on the basis of a minimum reinsurance order as a condition of giving an opportunity to the insurer to write a share of the risk.

   (e) The terms put up to the client by the broker should include the original letters of quotation from the insurers and the recommendation of the broker should be properly documented with reasons in support of the recommendation.

3. Documentation and post-insurance servicing of the direct insurance client:

   (a) Once the direct insurance client gives orders to bind the cover, the broker should obtain a letter of cover or cover note or insurance policy from the insurer or insurers concerned and submit them to the client before commencement of risk.

   (b) The broker should ensure payment of premium in a timely manner in compliance with Sec 64VB of the Insurance Act. The broker should explain to the client, the importance of compliance with policy conditions and warranties by the client during the policy period. Where the insurer issues only a cover note or letter of cover, the broker should follow up for issue of the formal policy document without delay. The broker should scrutinize all these documents to ensure that they are in conformity with the terms and conditions quoted and accepted by the client. Likewise, the broker should ensure timely payment of reinsurance premium on any reinsurance placed through it and follow up for the formal reinsurance document in a timely manner.

4. Placement of facultative reinsurance:

(a) A composite insurance broker or reinsurance broker shall not enter the reinsurance markets either to develop terms for reinsurance cover or to place reinsurance on any risk without the specific written authorization of the insurer insuring the risk or insurer who has been asked to quote terms for the risk.

(b) A reinsurance broker or a composite broker shall not block reinsurance capacity in anticipation of securing an order to place reinsurance.

(c) The broker shall provide to the insurer, a true and complete copy of the reinsurance placement slip to be used, before entering the market. The broker shall incorporate any modifications or corrections proposed by the insurer in the placement slip.

(d) The broker shall put up to the insurer, all the terms (including the reinsurance commission and brokerage allowed) obtained by it from various reinsurers and indicate the share the lead reinsurer is willing to write at those terms and the expectation of the broker about placement of the required reinsurance at the terms quoted, with acceptable reinsurance security.

(e) The broker shall furnish to the insurer, a true copy of the placement slip signed by the lead reinsurer quoting terms, indicating thereon, the signed line of the reinsurer.

(f) Where reinsurance on a risk is proposed to be placed with different reinsurers at different terms, the fact that terms for all reinsurers are not uniform, shall be disclosed to reinsurers suitably.

(g) Once the insurer has accepted the reinsurance terms quoted, the broker shall place the required reinsurance cover and shall keep the insurer informed about the progress of placement from time to time. In selecting the reinsurers to whom the risk is offered, the broker shall be mindful of the need to use only such reinsurers who are rated BBB or higher by a recognized credit rating agency, as required by Regulation 3(7) of IRDA (General insurance – reinsurance) Regulations 2000. Where the reinsurance is over-placed, the signing down shall be done in consultation with the insurer in a manner consistent with good market practice. The ceding insurer shall have the right to tell the broker not to use a specific market or reinsurer or reinsurers.

(h) Immediately after completion of placement of reinsurance, the broker shall issue a broker's cover note giving the terms of cover and the names of reinsurers and the shares placed with each of them. The cover note shall contain a listing of all important clauses and conditions applicable to the reinsurance and where the wordings of clauses are not market standard, the wordings to be used in the reinsurance contract shall be attached to the broker's cover note.

(i) The broker shall follow up the cover note by a formal signed reinsurance policy document or other acceptable evidence of the reinsurance contract signed by the reinsurers concerned, within one month of receipt of reinsurance premium.

(j) The broker shall have a security screening procedure in-house or follow credit ratings given by recognized credit rating agencies and answer without any delay, any questions raised by the insurer about the credit rating of one or more reinsurers. Where the insurer declines to accept a particular reinsurer for whatever reason and asks the broker to replace the security before commencement of risk, the broker shall do so promptly and advise the insurer of the new reinsurer brought on the cover.

5. Placement of Treaty or Excess of Loss Reinsurance:

(a) A composite insurance broker or reinsurance broker invited to place a proportional treaty shall prepare the treaty offer slip and supporting information with the cooperation of the insurer and secure the insurer's concurrence to the slip and information before entering the market.

(b) Where a reinsurance treaty is placed at different terms with different reinsurers, the fact that such is the practice shall be made known to all the reinsurers suitably.

(c) Where a reinsurer accepts a share in a treaty subject to any condition, the conditions shall be made known to the ceding insurer and its agreement obtained before binding the placement.

(d) The broker shall advise the progress of placement of the treaty from time to time. Immediately after completion of placement, the broker shall issue a cover note setting out the treaty terms and conditions and list of reinsurers with their shares. Where a treaty is over-placed, the broker shall sign down the shares in consultation with the insurer in a manner consistent with good market practice.

(e) The broker shall secure signature of formal treaty wordings or other formal reinsurance contract documentation within three months of completion of placement.

(f) The broker shall have a security screening procedure in-house or follow credit ratings given by recognized credit rating agencies and answer without any delay, any questions raised by the ceding insurer about the credit rating of one or more reinsurers. Where the insurer declines to accept a particular reinsurer for whatever reason and asks the broker to replace the security before commencement of the reinsurance period, the broker shall do so promptly and advise the insurer of the new reinsurer brought on the cover.

6. Handling of reinsurance monies:

Every broker shall abide by the provisions of Regulation 23 of the IRDA (Insurance Brokers) Regulations 2002.

7. Co-broking:

(a) It is open to a client to appoint more than one broker to jointly handle the broking of its insurance requirements depending on the skills that the brokers may bring to the activity and to decide the manner in which the brokerage payable on the business may be shared among them. However, it is not permitted for one broker to appoint another broker to handle the broking of an account that has been given to that broker to handle by the client.

(b) Each of the direct insurance co-brokers shall be brokers who are licensed to broke the class of business concerned and each co-broker shall be responsible to ensure that these guidelines are complied with.

(c) The manner in which the brokerage is shared among the co-brokers shall be disclosed to the insurer on request. The insurer will be guided by the instructions of the client with regard to payment of brokerage to each co-broker for his share or to the lead co-broker who will then be responsible to pay the other co-brokers.

(d) Each of the co-brokers on a reinsurance placement shall also be responsible to ensure that these guidelines are complied with by themselves and any foreign brokers used by them.

(e) Where a reinsurance placement is co-broked with a foreign reinsurance broker, the licensed broker in India shall only use reinsurance co-brokers who agree to comply with the requirements of these guidelines and shall be responsible to secure compliance with these guidelines to the extent applicable, by the foreign reinsurance co-broker. The name and other particulars of the foreign reinsurance co-broker shall be disclosed to the insurer.

8. Reinsurance brokerage:

(a) Where the brokerage charged for a particular case exceeds the normal level of brokerage for such transaction, the fact should be disclosed to the insurer before binding cover. For this purpose, the normal level of brokerage shall be taken to be 2.5% on reciprocal proportional treaties, 5% on non-reciprocal proportional treaties, 10% on excess of loss covers and 5% on facultative placements.

(b) For the purpose of sub-para (a) above, payments of all nature in respect of the particular account, such as risk inspection fees or risk management fees or administration charges, etc., shall be aggregated.

9. Insurer's right to develop business directly:

Nothing contained in these guidelines shall be interpreted as prohibiting an insurer from approaching a client directly to service its insurance requirements. However, an insurer shall not go to a client who has already decided to use a broker for its insurance placement and has appointed a broker and such broker has approached the insurer for terms.

10. Effective date

These guidelines shall come into effect from 01st October 2006 and shall apply to any insurances where the process of placing insurance or negotiating terms of insurance is initiated after that date, including renewals in respect of insurances expiring after that date.

(C.S. Rao)
Chairman