

MAS 503

1 July 2005

NOTICE TO INSURANCE BROKERS INSURANCE ACT, CAP 142

REPORTING OF MISCONDUCT OF BROKING STAFF BY INSURANCE BROKERS

Introduction

1 This Notice is issued pursuant to section 64(2) of the Insurance Act (Cap 142) [“the Act”]. MAS 500 issued on 1 October 2002 is cancelled.

2 This Notice shall apply to all registered insurance brokers and persons who are exempt from registration as an insurance broker under section 35ZN(1)(a) to (ea) of the Act. It sets out the responsibilities and reporting requirements of insurance brokers for the misconduct of their broking staff.

Definitions

3 For the purposes of this Notice —

“broking staff”, in relation to an insurance broker, means any employee of the insurance broker or any other person who is authorised by the insurance broker to act on its behalf to provide technical advice to any client of the insurance broker in respect of —

- (a) insurance policies relating to general business and long-term accident and health policies, other than insurance policies relating to reinsurance business; or
- (b) reinsurance of liabilities under insurance policies relating to life or general business;

“exempt insurance broker” has the same meaning as in regulation 2(1) of the Insurance Intermediaries Regulations 2003;

“insurance broker” has the same meaning as in section 1A of the Act; and

“quarter” means any period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

Disciplinary Action

4 An insurance broker is responsible for the conduct of its broking staff. It should take appropriate disciplinary action against its broking staff for any misconduct committed by them in relation to the carrying on of insurance broking business and ensure consistency in its application of disciplinary action.

5 The type of disciplinary action that an insurance broker may take against its broking staff in respect of any misconduct committed depends on the severity of the case and includes, but is not limited to, any one or more of the following —

- (a) suspension from carrying on insurance broking business;
- (b) restitution of misappropriated monies;
- (c) fine;
- (d) formal warning;
- (e) demotion; and
- (f) termination of the broking staff’s employment or arrangement with the insurance broker.

6 An insurance broker should have an internal process for addressing the appeals made by its broking staff for any disciplinary action taken against them.

Quarterly Report

7 An insurance broker shall report to the Authority, in the manner specified in paragraph 9, any disciplinary action it has taken against any of its broking staff for the following types of misconduct committed by its broking staff —

- (a) Acts Involving Fraud, Dishonesty or Other Offences of a Similar Nature: cases where the insurance broker has reason

to suspect that its broking staff has committed any offence involving cheating, dishonesty, fraud, forgery, misappropriation of monies or criminal breach of trust. For such cases, the insurance broker is expected to lodge a police report and submit to the Authority a copy of the police report, together with information (where available) relating to —

- (i) the name of the police officer investigating the case; and
- (ii) an update on the progress of the police investigation and result of the criminal proceeding (if any).

Where an insurance broker has not lodged a police report, it should notify the Authority of the reasons for its decision;

- (b) Acts Involving Failure to Exercise Due Care and Diligence, Misrepresentation or Inadequate Disclosure of Information: cases where its broking staff —
 - (i) failed to exercise due care and diligence in understanding and satisfying the insurance requirements of the client or take all reasonable steps to act fairly in the interests of the client;
 - (ii) made deceptive, false or misleading statements to the client; or
 - (iii) failed to make adequate disclosure of all facts and information for the client to make an informed decision;
- (c) Failure to Satisfy the Guidelines on Fit and Proper Criteria [“Guideline No. MCG-G01”]: cases where its broking staff failed to satisfy the fit and proper criteria set out in Guideline No. MCG-G01; and
- (d) Other Misconduct: any type of misconduct other than those set out in sub-paragraphs (a) to (c), resulting in —

- (i) a non-compliance with any regulatory requirement relating to the carrying on of insurance broking business under the Act; or
- (ii) a serious breach of the insurance broker's internal policy or code of conduct which would render the broking staff liable to demotion, suspension or termination of the broking staff's employment or arrangement with the insurance broker.

8 An insurance broker shall also report to the Authority, in the manner specified in paragraph 9, any type of misconduct set out in paragraph 7 that is committed by any of its broking staff for which —

- (a) disciplinary action has been decided upon but not yet taken because the implementation of the decision is pending an internal appeals process;
- (b) disciplinary action had not been decided upon or taken because the broking staff concerned ceased to be a broking staff of the insurance broker —
 - (i) before the misconduct was discovered; or
 - (ii) before any disciplinary action was decided upon or taken.

9 An insurance broker shall submit to the Authority, not later than 14 days after the end of each quarter —

- (a) a report for that quarter in the form set out at Appendix 1 [“Quarterly Report”], of the information required under paragraphs 7, 8 and 12; or
- (b) a nil return if there is no misconduct for which the insurance broker is required to report under sub-paragraph (a).

10 An insurance broker is not required to include in the Quarterly Report, disciplinary action taken against its broking staff for failing to meet the continuing education requirements.

Special Report

11 In addition to the Quarterly Report to be submitted in accordance with paragraph 9, where an insurance broker discovers that any of its broking staff has committed any misconduct of the type referred to in paragraph 7(a), the insurance broker shall submit to the Authority, not later than 14 days from the date of discovery of the misconduct committed, a report in the form set out at Appendix 2 [“Special Report”].

12 Where the Special Report referred to in paragraph 11 is submitted by an insurance broker in any quarter, the insurance broker shall set out in the Quarterly Report for the same quarter, all information contained in the Special Report, including any developments after the submission of the Special Report.

Investigations

13 For the purpose of complying with the requirements in paragraphs 7 to 9 and 11 to 12, an insurance broker is expected to conduct internal investigations and keep proper records of the following —

- (a) a summary of the facts of the case;
- (b) interviews with relevant parties such as the broking staff, his supervisor and the client;
- (c) documentary evidence of the alleged misconduct;
- (d) the investigator’s assessment and recommendation; and
- (e) disciplinary action taken against the broking staff, if any.

14 Where an investigation has been carried out by an insurance broker in respect of any misconduct committed by any of its broking staff, the insurance broker shall, at the request of the Authority, furnish the records set out in paragraph 13.

Use of Information in Report

15 The Authority may take into account any information contained in any report that is submitted by an insurance broker under this Notice in exercising its powers or performing its functions under the Act.

16 This Notice shall take effect on 1 July 2005 and shall apply to the quarter commencing on 1 July 2005.

Note:

Under section 55(2) of the Act, any person who is guilty of any breach of a duty imposed by this Act or any direction issued by the Authority (which would include this Notice) under section 64(2) shall be guilty of an offence and, where no penalty is expressly provided, shall be liable on conviction to a fine not exceeding \$12,500 and, in the case of a continuing offence, to a further fine not exceeding \$1,250 for every day during which the offence continues after conviction.

Appendix 1

QUARTERLY REPORT OF MISCONDUCT OF BROKING STAFF BY AN INSURANCE BROKER FOR THE QUARTER ENDING _____

Name of Broking Staff	NRIC No. of Broking Staff	Description of Misconduct	Disciplinary Action Taken Against the Broking Staff (if applicable)	Other Remarks
(a) Acts Involving Fraud, Dishonesty or Other Offences of a Similar Nature				
(b) Acts Involving Failure to Exercise Due Care and Diligence, Misrepresentation or Inadequate Disclosure of Information				
(c) Failure to Satisfy the Guidelines on Fit and Proper Criteria [Guideline No. MCG-G01]				
(d) Other Misconduct				

Other remarks: _____

Name of Insurance Broker:

Details of Reporting Officer:

Name :

Designation :

Signature :

Date :

Appendix 2

**SPECIAL REPORT OF MISCONDUCT OF BROKING STAFF BY
AN INSURANCE BROKER FOR THE QUARTER ENDING**

Name of Broking Staff	NRIC No. of Broking Staff	Description of Misconduct	Disciplinary Action Taken Against the Broking Staff (if applicable)	Other Remarks
Acts Involving Fraud, Dishonesty or Other Offences of a Similar Nature				

Other Remarks: _____

Name of Insurance Broker:

Details of Reporting Officer:

Name :

Designation :

Signature :

Date :