

MAS 504

26 November 2010

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 503 issued on 1 July 2005 is cancelled with effect from 1 January 2011.

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 (Rg 16);

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

Report on Misconduct of Broking Staff

4 An insurance broker or an exempt insurance broker shall report to the Monetary Authority of Singapore [the “Authority”], in the manner specified in paragraph 6, upon discovery of any of the following types of misconduct committed by their broking staff —

- (a) Acts Involving Fraud, Dishonesty or Other Offences of a Similar Nature: cases where the insurance broker or exempt 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 or exempt insurance broker, as the case may be, 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 or an exempt 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 a deceptive, false or misleading statement 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. FSG-G01”]: cases where its broking staff failed to satisfy the fit and proper criteria set out in Guideline No. FSG-G01; and
- (d) Other Misconduct: any type of misconduct other than those set out in sub-paragraphs (a) to (c), resulting in —
- (i) 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 or exempt 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 or exempt insurance broker, as the case may be.

5 An insurance broker and an exempt insurance broker shall also report to the Authority, in the manner specified in paragraph 6, any type of misconduct set out in paragraph 4 that is committed by any of their broking staff who has ceased to be a broking staff of the insurance broker or exempt insurance broker, as the case may be, before the misconduct was discovered, or before disciplinary action has been decided upon or taken.

6 Where a misconduct has been committed for which the insurance broker or exempt insurance broker is required to report to the Authority in accordance with paragraph 4 or 5, the insurance broker or exempt insurance broker shall submit to the Authority the relevant information in the form set out at Appendix 1 [“Misconduct Report”] not later than 14 days after the discovery of the misconduct by the insurance broker or exempt insurance

broker, as the case may be. The Misconduct Report shall be lodged by the insurance broker or exempt insurance broker through MASNET.

7 An insurance broker shall ensure that its broking staff meet continuing education requirements as part of the fit and proper requirements. However, the insurance broker is not required to lodge a Misconduct Report against its broking staff for failing to meet the continuing education requirements.

Update on Report of Misconduct of Broking Staff

8 In addition to the Misconduct Report to be submitted in accordance with paragraph 6, where an insurance broker or an exempt insurance broker, as the case may be, has not concluded its investigation or has not taken any disciplinary action against the broking staff concerned, the insurance broker or exempt insurance broker shall submit to the Authority, a report in the form set out at Appendix 2 [“Update Report”], to provide an update of the case as and when there is any significant development. The Update Report shall be lodged by the insurance broker or exempt insurance broker through MASNET.

Annual Declaration

9 If there is no Misconduct Report for which an insurance broker or exempt insurance broker, as the case may be, is required to report under paragraph 6 for any calendar year, the insurance broker or exempt insurance broker shall submit to the Authority a declaration in the form set out at Appendix 3 not later than 14 days after 31 December of that calendar year. Appendix 3 shall be lodged by the insurance broker or exempt insurance broker through MASNET.

Investigations

10 For the purpose of complying with the requirements set out in paragraphs 4 to 6 and 8, an insurance broker or an exempt 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.

11 Where an investigation has been carried out by an insurance broker or an exempt insurance broker in respect of any misconduct committed by any of its broking staff, the insurance broker or exempt insurance broker shall, at the request of the Authority, furnish the records set out in paragraph 10 to the Authority.

Disciplinary Action

12 An insurance broker or an exempt 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 any insurance broking business and ensure consistency in its application of disciplinary action.

13 The type of disciplinary action that an insurance broker or an exempt 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 any 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 or exempt insurance broker, as the case may be.

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

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 or an exempt insurance broker under this Notice in exercising its powers or performing its functions under the Act.

16 This Notice shall take effect on 1 January 2011.

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 provide, 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.

REPORT ON MISCONDUCT OF BROKING STAFF

This report is being submitted under:
MAS 504 under the Insurance Act (Cap. 142)

1 Identification Details

1.1 Name as reflected in NRIC or passport

1.2 (a) Date of Birth (DD/MM/YYYY)

1.2 (b) Gender Male
 Female

1.2 (c) Nationality Singapore Citizen
 Singapore PR. Please specify country:
 Others. Please specify country:

1.2 (d) (i) NRIC No.

(For Singapore citizen and Singapore PR)

or

(ii) Foreign Identification Number

(For employment pass or work-permit holders)

or

(iii) Passport Number

(For non-Singapore citizen and non-Singapore PR)

2 Information on Misconduct

2.1 Please select the type(s) of misconduct that has been committed by the broking staff (you may select more than one option):

- Acts involving fraud, dishonesty or other offences of a similar nature
- Failure to satisfy the Guidelines on Fit and Proper Criteria [Guideline No. FSG-G01]

- Acts involving failure to exercise due care and diligence, misrepresentation or inadequate disclosure of information
- Other misconduct

2.2 Period of Misconduct (Please be as precise as possible.)

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2.3 Has the company concluded its investigation?

- Yes (Please attach investigation report(s).)

If the answer is “Yes”, has the company taken disciplinary action against the individual?

- Yes (Please provide details at 2.4.)
 - No (Please update the information when the disciplinary action has been taken.)
 - Not applicable because the company has decided not to take disciplinary action against the individual for this case.
- No (Please submit the Update Report when there is any significant development as well as at conclusion of the investigation.)

2.4 Summary of the Misconduct

Where possible, please include information on:

- a. circumstances under which the misconduct was discovered;
- b. the number of clients affected;
- c. the monetary amounts involved;
- d. whether the individual was cooperative during the investigation process, and
- e. the type of disciplinary action taken against the individual.

Where available, please attach supporting documents such as written and signed statements, investigation reports and police reports.

3 Declaration

This report is submitted on behalf of (name of insurance broker) by (name of director/principal officer/ chief executive officer) who certifies that the information contained in the above report is to the best of (name of insurance broker)'s knowledge and belief true and correct.

4 Confirmation

(name of insurance broker) is aware that, pursuant to section 55 (1)(b) of the Insurance Act (Cap. 142), "Any person who furnishes the Authority with any information under or for the purposes for any other provision of this Act shall use due care to secure that the document or information is not false in any material particular; and if he does not use due care in this behalf and the document or information is false in a material particular, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both."

Signature: _____

Date: _____

Appendix 2

UPDATE ON REPORT OF MISCONDUCT OF BROKING STAFF

This report is being submitted under:
MAS 504 under the Insurance Act (Cap. 142)

1 Identification Details

1.1 Name as reflected in NRIC or passport

1.2 (a) Date of Birth (DD/MM/YYYY)

1.2 (b) Gender Male
 Female

1.2 (c) Nationality Singapore Citizen
 Singapore PR. Please specify country:
 Others. Please specify country:

1.2 (d) (i) NRIC No.

(For Singapore citizen and Singapore PR)

or

(ii) Foreign Identification Number

(For employment pass or work-permit holders)

or

(iii) Passport Number

(For non-Singapore citizen and non-Singapore PR)

2 Information on Misconduct

2.1 Please select the type(s) of misconduct that has been committed by the broking staff (you may select more than one option):

- Acts involving fraud, dishonesty or other offences of a similar nature
- Failure to satisfy the Guidelines on Fit and Proper Criteria [Guideline

No. FSG-G01]

- Acts involving failure to exercise due care and diligence, misrepresentation or inadequate disclosure of information
- Other misconduct

2.2 Period of Misconduct (Please be as precise as possible.)

--

2.3 Has the company concluded its investigation?

- Yes (Please attach investigation report(s).)

If the answer is “Yes”, has the company taken disciplinary action against the individual?

- Yes (Please provide details at 2.4.)
 - No (Please update the information when the disciplinary action has been taken.)
 - Not applicable because the company has decided not to take disciplinary action against the individual for this case.
- No (Please submit the Update Report when there is any significant development as well as at conclusion of the investigation.)

2.4 Summary of the Misconduct

Where possible, please include information on:

- a. circumstances under which the misconduct was discovered;
- b. the number of clients affected;
- c. the monetary amounts involved;
- d. whether the individual was cooperative during the investigation process, and
- e. the type of disciplinary action taken against the individual.

Where available, please attach supporting documents such as written and signed statements, investigation reports and police reports.

3 Declaration

This report is submitted on behalf of (name of insurance broker) by (name of director/principal officer/ chief executive officer) who certifies that the information contained in the above report is to the best of (name of insurance broker)'s knowledge and belief true and correct.

4 Confirmation

(name of insurance broker) is aware that, pursuant to section 55 (1)(b) of the Insurance Act (Cap. 142), "Any person who furnishes the Authority with any information under or for the purposes for any other provision of this Act shall use due care to secure that the document or information is not false in any material particular; and if he does not use due care in this behalf and the document or information is false in a material particular, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both."

Signature: _____

Date: _____

DECLARATION OF NIL RETURN OF MISCONDUCT OF BROKING STAFF

This report is being submitted under:
MAS 504 under the Insurance Act (Cap. 142)

1 Declaration

I hereby declare that (name of insurance broker) has no misconduct for which it is required to report under paragraph 6 of MAS 504 Reporting of Misconduct of Broking Staff by Insurance Brokers for the calendar year ended 31 December .

2 Confirmation

(name of insurance broker) is aware that, pursuant to section 55 (1)(b) of the Insurance Act (Cap. 142), “Any person who furnishes the Authority with any information under or for the purposes for any other provision of this Act shall use due care to secure that the document or information is not false in any material particular; and if he does not use due care in this behalf and the document or information is false in a material particular, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.”

Details of Reporting Officer

Reporting Officer Name :
Designation :
Signature :
Date :