

Client Alert

June 2018

OIC Improves Regulation Regarding Sale of Life and Non-Life Insurance Products

1. Background and Rationale

Almost ten years after the Office of the Insurance Commission ("**OIC**") issued its notification governing the sale of insurance policies by life and non-life insurance companies in 2008, the OIC has published the draft Notifications re: Rules and Procedures for Issuing and Offering for Sale Insurance Products of Life and Non-Life Insurance Companies and the Operations of Insurance Agents and Licensed Brokers (the "**Draft Notifications**"). The Draft Notifications will replace and repeal their predecessors, which are now out-of-date because of the supplementary notifications and rules that have been issued in recent years.

2. Key Concepts and Focus

The recurring theme in the Draft Notifications is the need to prioritize and protect the benefits of the insured in all aspects of the insurance business. Therefore, the Drafts introduce certain concepts, such as good corporate governance, and fair treatment to customers, and impose obligations upon insurance companies to include certain processes into their business operation, such as risk management and internal control. In addition, the Draft Notifications expressly recognize the concept of banks conducting telesales business, which has long been an ambiguous issue in the industry.

Below is the summary of the newly introduced obligations and concepts in the Draft Notifications.

3. Key Requirements

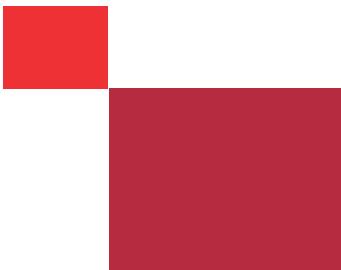
3.1 Corporate culture and role board of directors and management

This is an entirely new concept which did not exist in the previous notifications. This Draft Notification imposes an obligation on the board of directors and the management of any insurance company to be responsible for promoting standards of fair treatment to customers, and requires the company to exert substantial effort into incorporating this corporate culture into its business operations.

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The key provisions are set out below.

- (a) The company must have a business plan outlining the fees and commissions that it would pay to agents, licensed brokers, and banks who sell their insurance products, for all sales channels, as well as setting incentive fees, key performance indices, and punitive measures.
- (b) The board of directors must appoint a person in a managerial position, or a working committee chaired by a member of management, to be responsible for ensuring that fair treatment to customers is implemented across the company.
- (c) The company must have a sufficient number of qualified staff proportionate to its business operations, and must appoint a person to be responsible for supervising and monitoring those staff on a regular basis.
- (d) The company must ensure that it manages conduct-of-business risks in all aspects of servicing its customers. Particularly, it must take extra care in considering the risks of an extensive group of customers, or customers in need of special attention, such as customers over 60 years of age, and customers with limited financial knowledge. Such risk management must include at least the following activities, and will be governed by the OIC's Notification concerning the minimum standards of risk management:
 - (i) determining the form and wording of the policies, developing the policies, and setting premium rates;
 - (ii) advertising, offering insurance for sale, and providing details of insurance offerors;
 - (iii) collecting, storing, and protecting personal data of customers;
 - (iv) providing services to policyholders during the policy term;
 - (v) managing compensation payments, and paying out benefits of the policies; and
 - (vi) managing complaints about insurance policies.



- (e) The company must implement a system for internal control, monitoring, and investigations, in accordance with the OIC's Notification concerning internal control, and the system must be connected to the system for conduct-of-business risks. The company is required to conduct a risk assessment at least once a year to identify any potential risks.

3.2 Issuance of policies

- (a) The company will be required to have a development framework for determining the form and wording of policies, developing policies, and setting premium rates, whereby the benefits to policyholders must be central to all considerations.
- (b) In addition, the company must involve relevant organizations in developing or selecting insurance policies for sale.

3.3 Offering policies for sale

- (a) The Draft Notifications now recognize electronic platforms as a channel for the sale of insurance policies, subject to the OIC's Notification concerning sales via electronic means.
- (b) For all sales channels, insurance companies are required to disclose information about all offerors of their insurance products publicly on their websites, and must update this information regularly. In addition, the Draft Notifications lay down the specific procedures which employees of insurance companies, their agents, and licensed brokers must follow for any sale, including for example:
 - (i) clearly identify which insurance company issues the policy;
 - (ii) inform the customer where he or she got the customer's contact information from, when requested to do so by the customer;
 - (iii) ensure that the customers receive accurate information, which is sufficient for the purpose of informedly entering into an insurance contract; and



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(iv) must not annoy or disturb the customers, and must immediately cease offering insurance products at any time as soon as the customer expresses the intention that he or she does not wish to purchase an insurance product.

(c) For telesales, the person offering to sell an insurance product must seek permission from the prospect to record the telephone conversation. If permission is not obtained, the call must immediately end. Banks are also expressly allowed to conduct telesales.

3.4 Provision of after-sale services

- (a) This section did not appear in the previous Notifications. Insurance companies are required to ensure that there is a working system, procedures, or means for receiving complaints from customers; for cancelling insurance policies; and properly returning premiums. All offerors of insurance products are responsible for providing these services and following up with the customers as appropriate.
- (b) The procedures and working system implemented by the company must be in accordance with the OIC's notification regarding compensation pursuant to insurance contracts.

3.5 Consequences of violation and breach

- (a) The OIC still has the authority to order any insurance company acting in breach of the Draft Notifications to immediately rectify its actions or to suspend the company of its operations where the company intentionally acts in breach of the Draft Notifications.
- (b) The maximum penalty for breach or violation of the provisions in the Notification remains the revocation of brokers' or agents' licenses.

4. Conclusion

The Draft Notifications are currently going through the OIC's internal consideration process. If the OIC approves, the Draft Notification will come into force on 1 January 2019. Insurers are urged to familiarize themselves with the new requirements in order to ensure their compliance and prepare for the more stringent sales-related requirements.