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Fair Treatment

Rule 1 – Requirements for the Fair Treatment of Policyholders

- Insurers must act “with due regard to the fair treatment of policyholders”
- TCF Outcomes included in Rules
- Funds and Group Schemes
 - Suitable advice
- Must be reviewed regularly

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Products

Rule 2 - Product Design

- Information on customer needs
- Thorough assessment of products
- Due diligence on white labelling
- Approved by managing executive

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Products And Product Design

Rule 3 – Credit Life & Consumer Credit Insurance

- All mandatory policies to comply with CC Regulations
- Substitution of consumer credit insurance
- Group Schemes

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Products

Other Rules

- Rule 4 - Cooling-off rights
- Rule 5 - Negative Option Selection
- Rule 6 - Determining Premiums
- Rule 7 - Void Provisions
- Rule 8 - Waiver of Rights
- Rule 9 - Blank or incomplete documents

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Advertising and Disclosure

Rule 10 - Advertising

“advertisement” means:

“any communication published through any medium and in any form, . . . intended to create public interest in the business, policies or related services of an insurer, or to persuade the public (or a part thereof) to transact in relation to a policy or related service of the insurer in any manner . . .”

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Advertising and Disclosure

Rule 10 - Advertising

- 1) General Principles
- 2) Factually correct, balanced and not misleading
- 3) Public interest
- 4) Insurer identified
- 5) Record keeping – 5 Years
- 6) Negative option marketing

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Advertising and Disclosure

Rule 10 - Advertising

- 7) Unwanted direct marketing
- 8) Comparative marketing
- 9) Puffery
- 10) Endorsements – must be genuine (No Actors . . .)
- 11) Loyalty benefits or bonuses
- 12) Prominence
- 13) Investment Policies

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Advertising and Disclosure

Rule 10 – Advertising - Intermediaries

“An insurer must at all times ensure that any intermediary . . .that distributes or promotes its policies has appropriate processes in place to ensure that any advertisements, brochures or similar communications in respect of such policies are consistent with this rule.”

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Advertising and Disclosure

Rule 10 - Advertising

- Advertisements must comply with the code of advertising practice issued by the Advertising Standards Authority
- Intermediaries must observe this Rule
- Long and complicated – 8 pages
- Commences 6 months after being Gazetted

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Advertising and Disclosure

Rule 11 - Disclosure

- General disclosure requirements
- Point of entry requirements
- Ongoing disclosures
- Responsibilities of Insurer and Intermediary
- Disclosure requirements similar to GCOC
- Must record all verbal and written communications

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Intermediaries and Distribution

Rule 12 - Arrangements with Intermediaries

- Must be FAIS authorised
- Product knowledge competency
- Proper due diligence in each instance
- Written Agreements required (NB Rule 12.2.2)
- Requests for information

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Intermediaries and Distribution

Facilitation of fees payable by a policyholder

- Amount and purpose explicitly agreed in writing
- Relates to an actual service provided
- Service other than intermediary service
- Does not relate to any other remunerated service
- Reasonable and commensurate

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Product Performance and Services

Rule 13 - Data Management

- “Processing” definition same as POPIA
- Must have “as and when” access to data (Reg 6.3(1)(p))
 - “comprehensive and reliable data to ensure that the insurer is able to comply with any regulatory data management requirements” at least every 24 hours

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Product Performance and Services

Rule 14 - On-going Review of Performance

- Monitor :
 - Product
 - Distribution methods
 - Disclosure documents
- Products must be consistent with needs of targeted policyholders and deliver fair outcomes

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Product Performance and Services

Rule 15 - Premium Reviews (LT only)

- Only if the policy makes provision for reviews
- Must reasonably balance interests
- Risk policy increase – must provide alternatives

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Product Performance and Services

Rule 16 – Record Keeping

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No Unreasonable Post-sales Barriers

Rule 17 - Claims Management

- 1) Establishment of claims management framework
- 2) Requirements for claims management framework
- 3) Allocation of responsibilities
- 4) Claim escalation and review process
- 5) Decisions relating to claims

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No Unreasonable Post-sales Barriers

Rule 17 - Claims Management

- 6) Time limitation provisions for legal action
- 7) Record keeping, monitoring and analysis
- 8) Communications with claimants
- 9) Reporting of claims information
- 10) Claims administration fee
- 11) Prohibited claims practices

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No Unreasonable Post-sales Barriers

Rule 17 - Claims Management

“ . . . must have processes to ensure compliance with prescribed requirements for reporting claims information to any relevant designated authority or to the public as may be required by the Registrar “

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No Unreasonable Post-sales Barriers

Rule 18 - Complaints Management

“complaint”

. . . an expression of dissatisfaction . . . that -

- a) the insurer or its service provider has contravened or failed to comply with an agreement, a law, a rule, or a code of conduct which is binding on the insurer or to which it subscribes;
- b) the insurer or its service provider’s maladministration or wilful or negligent action or failure to act, has caused the person harm, prejudice, distress or substantial inconvenience; or
- c) the insurer or its service provider has treated the person unfairly;

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No Unreasonable Post-sales Barriers

Rule 18 - Complaints Management

- 1) Establishment of complaints management framework
- 2) Requirements for complaints management framework
- 3) Allocation of responsibilities
- 4) Categorisation of complaints (9 categories)
- 5) Complaints escalation and review process

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No Unreasonable Post-sales Barriers

Rule 18 - Complaints Management

- 6) Decisions relating to complaints
- 7) Record keeping, monitoring and analysis
- 8) Communication with complainants
- 9) Complaints that are not reportable complaints
- 10) Engagement with the Ombud

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No Unreasonable Post-sales Barriers

Rule 18 - Complaints Management

Requirements for complaints management framework.

... must enable the insurer to satisfy itself that the service provider has adequate complaints management processes in place to ensure fair treatment of complainants

Long and complicated – 9 pages

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No Unreasonable Post-sales Barriers

Rule 18 - Complaints Management

18.12 - Reporting complaints information.

... must have processes to ensure compliance with prescribed requirements for reporting complaints information to any relevant designated authority or to the public as may be required by the Registrar

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No Unreasonable Post-sales Barriers

Rule 19 - Replacement of Policies (LT Only)

- Individual Risk Policies
- Confirmation from Intermediary
- Record of Advice *(s9(1)(d) General Code of Conduct)*
- Managing Executive's Obligations
- Intermediary's failure to disclose
- Commission restrictions *(Reg 3.9A)*

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No Unreasonable Post-sales Barriers

Rule 20 - Termination of Policies

- Termination by Insurer
 - Individuals
 - Group Schemes
- Termination of a group scheme by the policyholder

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Arrangements with Intermediaries

Rule 12 - Arrangements with Intermediaries

- Written Agreements required
- S 12 GCOC - A provider must structure the internal control procedures concerned so as to provide reasonable assurance that all applicable laws are complied with

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Administration

Penalties

Sanctions for contravention

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And So . . .



Let's be careful out there

Sgt Phil Esterhaus

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