

FINANCIAL SERVICES COMMISSION

BULLETIN

Definition of Persons to be Registered as Sales Representatives

BACKGROUND

The Financial Services Commission (“the Commission”), pursuant to Section 6(2)(a) of the FSC Act is mandated to ensure that appropriate standards of conduct and performance are maintained by the financial institutions that it regulates.

For the insurance sector, it is critical that acceptable standards of market conduct and performance are maintained by licensed financial institutions. In this regard the Commission is concerned about the number of individuals in these institutions who are either selling or negotiating insurance business without being registered, thereby committing clear breaches of the Insurance Act and Regulations.

Against this background the Commission has developed guidelines which represent specific scenarios under which a person in an insurance entity is required to be registered as a ‘sales representative’, i.e. a person who may lawfully solicit or negotiate insurance business. The Guidelines promulgated in this document will further clarify the Commission’s expectations regarding the minimum standards to be adhered to by general insurance companies in seeking registration for their sales representatives.

With regard to the powers of the Commission to regularize persons who should be registered, Section 70 (1) of the Insurance Act 2001 stipulates that no person shall, in relation to insurance business of any class carry on or purport to carry on, business as, or act in the capacity of, an insurance intermediary, unless he is registered to do so. Section 70(2) of the Insurance Act further states that any person who contravenes this section shall be guilty of an offence.

General Principles

The general purpose of this paper is to provide specific functions within the insurance industry which qualify as fulfilling the role of a sales representative.

Definitions

For the purposes of this paper the following definition pursuant to Insurance Act and Regulations will apply:

Sales Representative-represents an individual employed by an insurer, agent, or a broker to **solicit** applications for insurance or to **negotiate** insurance on behalf of that insurer, agent or on behalf of the client or the broker.

Who Should Be Registered – The Commission’s Approach

The Commission has decided that the best approach to guide the insurance industry in deciding whether persons should be registered as sales representatives or not is to develop various scenarios which will assist these companies to determine if a particular function constitutes soliciting or negotiating insurance business and therefore falls within the guidelines established by the FSC.

SCENARIOS

Persons who should be registered	Persons who do not have to be registered
(a) Persons whose functions include negotiating the terms of new policies or <u>changes</u> in the terms and conditions of policies on renewal.	(a) Customer service personnel who may process the renewal of policies without any change in the terms and conditions of said policy and the premiums required for payment are as stated on the renewal notice and the insurance personnel accepts the business.
(b) Persons whose functions include soliciting insurance business	(b) Customer service personnel who may answer queries regarding renewal dates and other questions regarding existing policies; NOT in respect of new policies or policies being renewed.
(c) Persons whose functions include explaining the provisions of the policy with the intention of making a sale, including renewal.	(b) Persons who operate in the offices of the company by providing information regarding changes to policy, adjustment to rates and premiums and do not have direct contact with policyholders whether in person or on the telephone. These persons should only provide information to sales representatives who are in direct contact with clients.
(d) Persons whose functions include the computation of insurance premiums, based on the desired cover, in respect of new policies or policies being renewed and who communicates this information directly to clients.	
(e) Persons whose functions include sale of policies whether regularly or irregularly.	

Additionally, registration will not be required for members of the marketing department where the marketing function is clearly defined to exclude the soliciting and negotiation of insurance contracts. It is expected that these persons will only be “promoting” the product of the insurance company, and should not in any way perform the function of inviting or requesting clients to purchase insurance from their companies.

With regard to penalties for breaches, the FSC does not have the discretion to vary the penalties mandated by the FSC Act and Regulations; however, the FSC will not take enforcement action in cases where applications for registration were received in excess of 6 weeks prior to the date of an on-site examination which reveals any breach. Where flagrant breaches are noted, however, the FSC will proceed with enforcement action.

INFORMATION SOURCES

The formulation of this paper was guided by feedback from the Insurance Association of Jamaica and the Jamaica Insurance Brokers Association.