

FINANCIAL SERVICES COMMISSION

Market Conduct Guidelines on Best Practice for Motor Insurance Claims

These Guidelines apply to the claims process for Motor Claims Only.

BACKGROUND

The Financial Services Commission (“the Commission”) through section 6(1) of the Financial Services Commission Act (“FSC Act”) is mandated to promote stability and confidence in the operations of the financial institutions that it regulates. Section 6 (2) (a) of the FSC Act also mandates the Commission to ensure that appropriate standards of conduct and performance are maintained by these institutions.

For the insurance sector, strengthening the integrity of the claims settlement process is important both for promoting public confidence and for ensuring that acceptable standards of market conduct and performance are maintained by licensed financial institutions. In this regard the Commission is concerned about undue delays in the settlement of legitimate claims which may undermine public confidence. The Commission is particularly concerned with reducing the delays in the settlement of motor vehicle claims, given the relatively greater frequency of these claims compared with other categories of general insurance or life insurance claims.

During the period January 2004 to March 2005, a total of 219 complaints were received by the Commission, of which 167 or 80 % related to motor vehicle claims. Within the latter category 64 complaints (or 38% of total motor vehicle claims) related to the lengthy delay in the settlement of claims, and was the single most frequent type of complaint registered for the period under review. For the same period 49 complaints or 22 % of the total complaints received by the Commission were in relations to claims not being honoured and in many instances this problem was compounded by extensive delays in companies detailing their position.

Against this background the Commission has developed guidelines which represent minimum standards for the settlement of Motor Vehicle claims. Regulations 132-139 of the Insurance Regulations, 2001 provide broad guidance on the timeframe for the settlement of insurance claims. The Claims Best Practice Guidelines promulgated in this document further clarifies the Commission’s expectations regarding the minimum standards to be adhered to by general insurance companies in the settlement of motor vehicle claims.

With regard to the powers of the Commission to regulate the insurance claims process, Section 15(3) (v) of the Insurance Act 2001 provides that a registered entity could have its registration cancelled by the Commission for its failure to settle claims within a reasonable time frame. Section 76(2)(d) of the Insurance Act provides for the suspension of the registration of any person who has been guilty of unreasonable delay in the payment or settlement of any claim arising under any policy issued by or through him. Finally, Section 66(2)(e) of the Insurance Act, 2001 provides for the suspension or

cancellation of the registration of a registered association of underwriters by the Commission if it has been guilty of unreasonable delay in the payment or settlement of any claim arising under any policy issued in Jamaica by it or in its behalf.

GENERAL PRINCIPLES

The establishment of Industry Claims Best Practice Guidelines is relevant to achieving a number of objectives. These objectives include, but are not limited to the following:

- ? Predictability in the time needed for pre-settlement activities;
- ? Standardization of relevant information, including, documents to be submitted, for example, a completed Claim Form, Repairer's Estimate, Driver's Licence;
- ? Improvements in the quality and speed of communication;
- ? Promoting the equitable settlement of cases without undue litigation; and
- ? Promoting the settlement of claims on a cost effective basis

These guidelines promote the timely exchange of quality information during the settlement process so that all parties (claimant, insurer and intermediaries) have a clearer understanding of what is expected from each other when a claim is made. They also provide a benchmark against which the Commission may judge the performance and market conduct of insurers in the area of claims settlement.

The guidelines, in general, require that:

1. Insurers respond promptly to reasonable requests by claimants upon submission of claims;
2. Insurers provide reasonable guidance to facilitate a claim on a contract of insurance. This will require the insurer to provide an explanation of how the insurer will handle the particular claim, and advise the claimant of what is required of them at an early stage in the process.
3. Claims procedures documents are readily available to claimants
4. Insurers keep the claimants informed as to the progress of the claim including the internal and external procedures to resolve disputes.
5. Claims are settled promptly, once liability has been established.

GUIDELINES FOR INSURANCE COMPANIES

Definitions

For the purpose of these guidelines, the following definitions will apply:

Adjuster/Assessor – A person not being a salaried employee of an insurer or an attorney-at-law for an insurer or insured, who on behalf of an insurer or insured, for compensation directly or indirectly solicits the right to negotiate the settlement of, investigates or assesses a loss or claim under a contract.

Adjuster/Assessor Report – A written report by the adjuster which specifies his findings and makes recommendations on a loss.

Association of Underwriters –An association of individual underwriters whereby every underwriting member of a syndicate becomes liable for a separate part of the sum secured by each policy subscribed to by that syndicate, limited or proportionate to the whole sum thereby secured.

Broker – A person who solicits, negotiates or procures insurance or the renewal or continuance thereof on behalf of insurers or on behalf of agents or arranges motor insurance business with such insurers or agents on behalf of prospective policyholders.

Insurer –A general insurance company carrying on insurance business and includes all members of an association of motor underwriters registered as an insurer.

Insured – The party named on a policy or certificate as the individual with legal rights to the benefits provided by such policy.

Motor Vehicle Insurance: The business of effecting contracts of insurance against loss of, or damage to arising out of or in connection with the use of motor vehicles, including third-part risks.

Policy –The insurance contract/policy

Premium –Monies that are received from the policyholder on an insurance policy written by an insurer.

Mediation –A voluntary dispute resolving process in which a third party – the mediator-facilitates and coordinates the negotiations of disputing parties.

Best Practice Guidelines

The claims process can be broken down into two (2) broad stages, namely:

1. Notification, and
2. Settlement
 - (a) Adjudication
 - (b) Payment

Consistent with the requirements under the Insurance Regulations, insurance companies will be required to settle a motor vehicle claim within 30 days of receipt of complete documentation

establishing proof of claim. Failure to settle a proved claim within this period will constitute a breach of the Insurance Regulations. In this instance, the Commission will require that the insurer notify the claimant within 3 days of the expiry of the statutory 30 day period, giving reasons for the delay and a timeline for the claim settlement.

Notification Guidelines

Upon receipt of an insured's claim, an insurer shall:

1. Establish a Claims Log to record the activities undertaken pursuant to the claims process;
2. Respond in writing or by telephone within five (5) working days;
3. Advise with an explanation whether the claim is covered by the insured's policy; and
4. Provide the claimant with an explanation of the claims process including the required documentation and reports.

The required documentation should include but are not necessarily limited to the following items:

- A completed claim form or letter of claim (see **Appendix 1**) providing a list of minimum information required for a standard letter of claim/Claim Form;
- Repairer's estimate;
- Statement of how the accident occurred;
- An investigator's report is mandatory for an accident involving only one vehicle;
- Eyewitness statement;
- Copy of Drivers License of insured or person driving at the time of the accident;
- Fitness and vehicle registration documents;
- Third Party details, if applicable;
- Police Report, where necessary; and
- Road License (where applicable)

If the claim is submitted by a third party a similar process should be followed.

Adjudication Guidelines

After receiving a completed set of claims documents that establishes proof of claim, the insurer shall:

1. Provide the claimant with an explanation of the rationale for the involvement, if any, of other agents or intermediaries (for example, loss adjusters, solicitors, doctors or consultants);
2. Within 5 working days, make contact with any relevant party (broker, agent, and insurer) involved in the claim process;
3. Ensure that claims adjudication is completed within 14 working days

Payment Guidelines

After reviewing the completed set of claims documents the company, in settling an insured's claim, shall:

1. provide an explanation of how that category of claim will be settled for example, by direct payment to the insured or by paying a relevant third party, e.g. the garage which carried out the repairs to the vehicle, a Loan or Mortgage Company or a medical practitioner. Where a claim is rejected or the insurer is offering to pay a sum different from the amount claimed, the insurer must provide the insured with a written explanation.
2. make payments to the claimant or the relevant third party or organization within five (5) days of the receipt of a signed release.
3. in instances where the company is arranging for the repairs to be effected, for example the sourcing, complete the arrangements within 10 working days of receiving a signed release. Any challenge encountered must be communicated promptly to the insured.
4. provide the insured with a release detailing what will be done and inviting the insured to sign the release (a standardized Third Party Discharge/Release Form is provided in **Appendix 2**);

FUTURE INITIATIVES

These guidelines focus on the obligations of insurers to their clients. However, the process of claims settlement will be enhanced even further by initiatives in other areas, including dispute resolution, damage adjudication and liability assessment.

Dispute Resolution

The Commission intends to act in accordance with its statutory powers in cases where the guidelines are breached, that is, where insurers fail to settle claims regarded as “clean”. It is therefore necessary for a mediation process to be established to complement the guidelines and to assist in the resolution of disputed claims. To this end, the Commission will encourage the industry to include an Alternate

Dispute Resolution clause offering mediation as an option to clients. This clause could be included in all policies issued by general insurance companies offering the Motor class of business.

Damage Adjudication

Common service standards are mandatory, to be observed by approved assessors thereby influencing the turn-around time for the production of reports and also to enable insurers to monitor the quality of service they receive.

APPENDIX 1

MINIMUM INFORMATION REQUIREMENTS FOR STANDARD CLAIM FORM

Information to be standardized to include the following information

- Insured's Biography and other relevant details
- Particulars of the insured vehicle
- Particulars of the Use of the vehicle
- Details of damage to insured's vehicle
- Particulars of the Driver of Insured's vehicle- his biographic details and other relevant information
- Details on the accident
- Particulars of Third Party
- Particulars of Passengers in third party's vehicle and injuries sustained
- Any other particulars of third party's damage
- Signed Statement by the driver
- Names and addresses of witnesses, if any
- Signature of the insured and space for a sketch

APPENDIX 2

MODEL CLAIM DISCHARGE FORMS

PARTIAL RELEASE AND DISCHARGE

Claim No.

DATE:

I, the undersigned (Third Party's Name) of (Third Party's Address) in the Parish of() Do
Hereby acknowledge receipt of the sum of (Amount of money) from (Name of Company)
and (Name of Insured) which I accept as part settlement of my claim arising from a motor
vehicle accident which occurred along (Place of Accident) in the parish of () on (Date of
Accident) involving Motor vehicle bearing registration number (Insured's Vehicle No.)
owned by (Name of Insured) and driven by (Insured's Driver.)

This payment is received by me (Name of Third Party) by way of a part settlement of the claim I made.

DATED the day of 200

SIGNED BY:
Third Party's Signature

WITNESSED BY:

OCCUPATION

ADDRESS

THIRD PARTY RELEASE

CLAIM NO:

DATE

Received from (NAME OF COMPANY) and (INSURED) the sum of (Amount of Money) in full satisfaction of all claims and costs and expenses in respect of all personal injury and loss or damage to property suffered by me whether now or hereafter to become manifest arising directly or indirectly from the accident between (Motor Vehicle number) (Insured Vehicle No) the property of the said (Insured) and myself (Third Party) which occurred at (Place of Accident) in the Parish of() on the (Date of Loss).

This payment is received by way of compromise of the claim I have made and without any admission on the part of the said (Name of Company) and (Name of Insured) and each of them and from all claims and demands whatever arising directly or indirectly out of the said accident.

Dated the day of 200

SIGNED BY.....
Third Party's Signature

WITNESS BY.....

OCCUPATION.....

ADDRESS.....