GUIDELINES ON MARKET CONDUCT FOR LABUAN INSURANCE AND INSURANCE-RELATED COMPANIES

1. Introduction

1.1 These Guidelines set out guidance of market conduct for Labuan insurance and insurance-related companies in the Labuan International Business and Financial Centre (Labuan IBFC).

1.2 All guidance provided in these Guidelines are intended to be reflective of minimum standards that should be observed in all cases.

1.3 While these Guidelines attempt to be as objective as possible, they are not intended to be exhaustive.

1.4 In situation where the scopes mentioned in these Guidelines are not explicit, Labuan insurance and insurance-related companies should act in line with the Guidelines' underlying spirit.

2. Provision of the Law

2.1 The issuance of these Guidelines is pursuant to Section 4B of Labuan Financial Services Authority Act 1996.

2.2 Section 116(1)(a) of Labuan Financial Services and Securities Act 2010 (LFSSA) states that every Labuan insurer shall conduct its business with due diligence and care in accordance with sound insurance principles.

2.3 The above provision shall apply *mutatis mutandis* to a licensed Labuan insurance manager, licensed Labuan underwriting manager and licensed Labuan insurance broker.

3. Scope of Market Conduct

3.1 A good market conduct guidance would reinforce the laws and provide basic standards of business conduct to heighten consumers' confidence and protection.

3.2 Such guidance will provide direction and mechanism as to what are legitimate and acceptable practices for the Labuan insurance and insurance-related companies.

3.3 Every Labuan insurance and insurance-related company should implement internal policies and procedures to give effect the provision of these Guidelines and these would form part of the entire internal policies and procedures for the licensee and therefore be subject to the licensee's internal controls.

4. Integrity and Fair Dealing

4.1 Labuan insurance and insurance-related companies shall always adhere to high standards of integrity and fair dealing in their business conducts. They should avoid misleading and deceptive acts or representation.

4.2 They must assume the responsibility and liability to a customer that they have under a legislative framework and/or accepted practices.

4.3 Labuan insurance and insurance-related companies should either avoid any conflict of interest arising or, where a conflict arises, should ensure just treatment to all their customers by disclosure, internal rules on confidentiality or other accepted practices as deem fit.

4.4 They must not unfairly place their interests above their customers. They are also required to have a policy statement on how to treat customers fairly.

5. Skills, Care and Diligence

5.1 Labuan insurance and insurance-related companies should operate with due skills, care and diligence in conducting their business activities.

5.2 They have a duty to act competently and diligently in regard to all transactions between themselves and their customers.

5.3 Where they are responsible for providing advice or exercising discretion for or in relation to customers, they must be able to demonstrate that the advice, or exercise of discretion, are appropriate for the customers.

6. Disclosure of Information to Customers

6.1 Labuan insurance and insurance-related companies should take reasonable steps to provide written information to customers, in a comprehensive and timely manner, to assist them to make a balanced and informed decision before entering into an insurance contract. This includes communicating:

a. relevant and meaningful information;
b. the benefits and any risks of any particular product or contract to the customers; and
c. the obligations of both the Labuan insurance and insurance-related companies and the customers in clear and understandable manner.

6.2 The Labuan insurance and insurance-related companies should take reasonable care that the information is accurate in all material respects, not deceptive, easily comprehensible and accessible in writing or appropriate electronic means.

6.3 The customer should be given written information about:

a. the background of the Labuan insurance and insurance-related companies, at a minimum the address of its Head Office and contact details, its home jurisdiction and the regulatory and supervisory bodies responsible for its regulation and supervision*;*
b. the product e.g. price, cover, conditions, aims of product, risk factors, guarantees, special exclusions, etc;
c. complaints handling *(*see 8.1 and 8.2 below *);* and
d. other contractual arrangements.

6.4 Information should be provided at the time of concluding the contract. The frequency of information to be disclosed should depend on the type of contractual arrangements. For example, life insurance may require disclosure on an annual or bi-annual basis whereas non-life insurance may not require any disclosure, other than on renewal.

7. Information About Customers

7.1 Where Labuan insurance and insurance-related companies are responsible for providing advice or exercising discretion for their customers, they must seek from the customers such information about their circumstances and objectives as may be appropriate in regard to the services requested.

7.2 To develop such a relationship of trust and utmost good faith, Labuan insurance and insurance-related companies should obtain adequate information about the customer to assess his/her insurance needs.

7.3 Information, which a customer might reasonably expect to be confidential, should be treated as such. Customers should also be informed on their duty to disclose relevant information.

8. Complaints

8.1 Labuan insurance and insurance-related companies should have procedures in place, to deal with customers' complaints effectively and fairly through a simple and equitable process. These procedures should be well disclosed and easily accessible.

8.2 Details of the complaints, responses and any action taken must be recorded and maintained by Labuan insurance and insurance-related companies.

9. Compliance

9.1 Labuan insurance and insurance-related companies should establish and maintain proper procedure and controls to enable ongoing monitoring of compliance with these Guidelines.

9.2 They should ensure that their staff and the intermediaries, particularly those involved in the selling and marketing of insurance products and services are adequately trained and well equipped with knowledge of the disclosure requirements, the products and their operation.

10. Advertisement

10.1 All Labuan insurance and insurance-related companies must ensure that every advertisement is designed to disclose all relevant subject material. It must be clearly recognisable as an advertisement.

10.2 The content of the advertisement must not relate to past performances unless the basis on which such performance measured is clearly stated and the presentation is fair or accompanied by a warning that past performance is not necessarily a guide to future performance.

11. Implementation Date

11.1 All Labuan insurance and Labuan insurance-related companies are required to comply with these Guidelines, effective 1 October 2007.