

INSURANCE (INSURANCE AGENTS) RULES 2009

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INSURANCE (INSURANCE AGENTS) RULES 2009

FSC Rules made by the Financial Services Commission under Section 130 of the Insurance Act 2005.

PART I - PRELIMINARY

1. Short title

These Rules may be cited as the Insurance (Insurance Agents) Rules 2009.

2. Interpretation

In these Rules-

“Act” means the Insurance Act 2005;

“bank” has the same meaning as in the Banking Act 2004;

“bank account” means a bank account maintained by an insurance agent under section 73 (2) of the Act;

“agent staff” means any employee of the insurance agent or any other person who is authorized by the insurance agent to act on its behalf to provide technical advice to any client of the insurance agent in respect of insurance policies relating to insurance business for which the licence is granted;

“client” means policyholder and includes prospective policyholder;

“Commission” has the same meaning as under the Financial Services Act 2007;

“contract of insurance” means an insurance policy to provide policy benefits and includes a contract which is subsequently cancelled;

“agreed period” means —

- (a) the period within which the insurance agent has agreed with the client in accordance with First Schedule, to make payments of any amount due to the insurer under or in relation to a contract of insurance; or
- (b) the period within which the insurance agent has agreed with the insurer in accordance with rule 7 (3), to make payments of any amount due to the insurer under or in relation to a contract of insurance; or
- (c) 30 days from the date of receipt of payment of premium under the contract of insurance,

whichever is earlier.

“financial statements” has the same meaning as in the Companies Act 2001;

“FSC Rules” refers to Rules made by the Commission under the Act and the Financial Services Act 2007;

“financial year” for the purposes of these Rules, in relation to any insurance agent who is a natural person means the period starting from the commencement of his business or 1 July, as the case may be, to 30 June of the following year;

“insurer” has the same meaning as under the Act;

“insurance agent” has the same meaning as under the Act;

“monies” means any sum received by an insurance agent, including premiums and claims payments.

3. Application of the rules

- (1) These rules shall apply to insurance agents and any other person exercising the functions of an insurance agent including arranging insurance business with clients on behalf of an Insurer under the Insurance Act 2005.
- (2) These rules are not exhaustive and should be read in conjunction with the provisions of the relevant Acts and regulations made under those Acts or FSC Rules or guidelines which the Commission may issue from time to time.

PART II – DUTIES OF AN INSURANCE AGENT

4. Duties of an Insurance Agent

- (1) The duties of an insurance agent licensed to carry on business as general insurance agent or long term insurance agent or both shall include the following:
 - (a) obtaining detailed information of the client's business and risk management philosophy;
 - (b) familiarising itself with the client's business and underwriting information so that this can be explained to an insurer or any relevant person;
 - (c) maintaining detailed description of available insurance products of the insurer;
 - (d) providing detailed description of all the suitable insurance products of the insurer;

- (e) rendering advice on appropriate insurance cover and terms;
- (f) submitting quotations received from insurer (s) for consideration of a client;
- (g) providing requisite underwriting and customer due diligence information as required by an insurer in assessing the risk to decide pricing terms and conditions for cover;
- (h) advising the client of the exact dates on which the premiums have to be paid and the implications of not paying the premiums on the due dates in accordance with the Provisions of Livre Troisième, Titre Douzième, Chapitre Troisième of the Code Civil Mauricien;
- (i) disclosing to a client any commission which the insurance agent is entitled to receive in effecting the contract of insurance;
- (j) acting promptly on instructions from a client and providing him written acknowledgements and progress reports;
- (k) assisting clients in paying premium in terms of availability of different premium payment options;
- (l) assisting in the settlement of the claims

PART III – INDEPENDENCE OF INSURANCE AGENT

5. Ownership and significant interest

- (1) No insurer, insurance broker or insurance salesperson shall acquire or hold shares or any other significant interest, whether directly or indirectly, including by way of a subsidiary, associated or parent company or related company, in an insurance agent, unless approved by the Commission.
- (2) No reinsurer organized under the Laws of Mauritius or any country outside Mauritius shall acquire or hold shares or any other significant interest, whether directly or indirectly, including by way of subsidiary, associated or parent company or related company, in an insurance agent, unless approved by the Commission.
- (3) No insurance agent shall acquire or hold shares, or any other significant interests, whether directly or indirectly, including by way of a subsidiary, associated or parent company or other related company, in any insurer, insurance broker or reinsurer, unless approved by the Commission.
- (4) No person holding shares or any other significant interest whether directly or indirectly in an insurer, reinsurer, or insurance broker, shall acquire or hold shares or any other significant interest, whether directly or indirectly, including by way of a subsidiary, associated company or parent company or related company, in an insurance agent, unless approved by the Commission.

- (5) For the purpose of this rule, “significant interest” in the whole or part of a business is held when the person acquiring, holding or establishing the interest obtains the ability to materially influence the economic behaviour of the business or when the person holds directly or indirectly 20% or more of the shares, such significant interest being acquired or established pursuant to purchase of shares, shareholder agreements, management contracts, and other contractual arrangements involving corporations, partnerships, joint ventures, combinations thereof and other entities.
- (6) Where immediately before the coming into operation of these Rules, a person held shares or any other significant interest, which it is not allowed to hold under paragraphs (1), (2) and (3), that person shall take such measures as may be necessary to ensure compliance with these Rules by 1 January 2011.

PART IV – FINANCIAL AND OTHER REQUIREMENTS

6. Separate accounts for funds received

- (1) No insurance agent shall receive, hold, or in any other manner deal with, or be allowed by an insurer to receive, hold and deal with, premiums payable under an insurance policy, other than in accordance with these Rules.
- (2) An insurance agent shall open and maintain a separate bank account for each category of insurance business in respect of each insurer on behalf of whom it is acting as insurance agent for keeping of premiums received and such accounts shall be separate from any account which the insurance agent may open and maintain for the keeping of its own funds.
- (3) An insurance agent shall pay into the bank account established under this Part, all monies received:
 - (a) from or on behalf of a client for or on account of an insurer in relation to a contract of insurance or proposed contract of insurance; or
 - (b) from or on behalf of an insurer for or on account of a client.
- (4) An insurance agent who receives payment of premium from a client on behalf of an insurer and the return of premiums received from the insurer, if any, and who does not make immediate remittance to insurers and clients of such amounts, shall deposit such amounts promptly in the bank account established and maintained by the insurance agent and these accounts shall be held in a fiduciary capacity.
- (5) An insurance agent shall remit the premium to the insurer within the agreed period.
- (6) Subject to paragraph (7), no insurance agent shall withdraw monies from the bank accounts established under this Part, without the prior written consent of the insurer.

- (7) Paragraph (6) shall not apply for any withdrawal of monies from bank accounts with respect to -
 - (a) any refund to which a client is entitled;
 - (b) any payment to or for an insurer in respect of amounts due to the insurer under or in relation to a contract of insurance; and
 - (c) any repayment of monies which were paid into the bank accounts in error.
- (8) An insurance agent shall not retain any interest or other income which may accrue from the funds held in accounts maintained in accordance with paragraph (2) and such interest or other income shall be paid to the insurer, at the time the premium is remitted in accordance with the terms of the agreed period.
- (9) An insurance agent shall designate any bank account under paragraph (2) as an insurance agent premium account, with or without other words of description.
- (10) An insurance agent shall not create or cause to create a charge or mortgage on the monies in any account established by it under paragraph (2) and any charge or mortgage so created shall be null and void.

7. Conduct of business

- (1) An insurance agent shall act only for such insurer or insurers named in its licence and shall operate under the terms and conditions as may be specified by the Commission.
- (2) An insurance agent shall explicitly disclose to the client the commission, which it is entitled to, in arranging or effecting a contract of insurance and shall provide the completed "Client: Standard Insurance Agent Disclosure" document in accordance with the First Schedule of these Rules for review by the client along with the initial premium quotation;
- (3) An insurance agent shall enter into a written agreement with the insurer on:
 - (a) the amount of commission and any other benefits in any form it is entitled to;
 - (b) the basis on which the commission is to be calculated; and
 - (c) the period, which is less than 30 days, within which the insurance agent shall remit all monies under Rule 6 (3) (a) to the insurer.
 - (d) such other conditions as may be required by the Commission.

PART V – REGISTER OF INSURANCE AGENTS

8. Register to be maintained by insurance agents

- (1) Every insurance agent shall establish and maintain a register which shall at least include:
 - (a) the names of each of its agent staff;
 - (b) the names of each salesperson authorized to act on its behalf;
 - (c) the category or categories of insurance activity which each of its agent staff is carrying on;
 - (d) the date or dates on which each of its agent staff commences carrying on each category of insurance activity;
 - (e) any qualification obtained by each member of its agent staff to fulfill any requirement imposed by the Act, any regulations made thereunder or any guidelines issued by the Commission, and the date of obtaining such qualification.
- (2) An insurance agent shall also establish and maintain a register consisting of internal records of the identity of each of its clients in accordance with the Financial Intelligence and Anti-Money Laundering Act 2002, any regulations made thereunder, FSC Rules and any other guidelines issued by the Commission from time to time.
- (3) An insurance agent shall keep in relation to its business activities, a full and true written record and shall include account files and business correspondence.

PART VI – ACCOUNTS AND STATEMENTS

9. Returns to be submitted by insurance agents

- (1) An insurance agent shall not change its balance sheet date without the approval of the Commission.
- (2) Subject to paragraphs (3) and (4), an insurance agent shall submit to the Commission not later than 3 months after the expiry of each balance sheet date and with reference to that year -
 - (a) audited financial statements prepared in accordance with International Financial Reporting Standards;
 - (b) insurance agency premium accounts in accordance with Form I of the Second Schedule for each category of insurance agent business for each insurer in respect of which it is licensed;

- (c) a list of all classes of insurance and product lines offered and the respective number of policies, amount of premiums and commission for each product line which have been effected through the agency, with respect to each quarter and insurance category in accordance with Form II of Second Schedule.
- (3) Paragraphs (1) and (2)(a) shall not apply to an insurance agent who is a natural person.
- (4) An insurance agent who is a natural person shall submit the documents mentioned at Paragraphs (2)(b) and (c) to the Commission not later than 3 months after the end of each financial year.

10. Lodgement and signatures

- (1) Any document referred in Rule 9 shall be submitted to the Commission by the insurance agent and signed by —
 - (a) two of its directors or in case the insurance agent has one director, by that director;
 - (b) the agent in case the insurance agent is a natural person.
- (2) Every persons who signs any balance sheet referred to in Rule 9 (2)(a) shall sign a certificate in accordance with Form III of the Second Schedule and such certificate shall be submitted to the Commission by the insurance agent.

11. Auditor's report

- (1) An insurance agent shall submit to the Commission within 3 months from the end of each financial year a report prepared and signed by its auditor in accordance with Form IV of the Second Schedule stating the auditor's opinion on the audited financial statements, insurance agent premium accounts, and statements referred to in Rules 9(2)(a) to (c).
- (2) An insurance agent shall, within 90 days from the date of the auditor's report, take steps to rectify any deficiencies made out in the auditor's report and inform the Commission accordingly.
- (3) All the books of account, statements, contract notes and other documents, shall be maintained at the head office of the insurance agent or other branch office as may be designated by the agent and notified to the Commission, and shall be available on all working days to such officers of the Commission.

12. Records to be kept

All the books, statements, contract notes and other documents referred to in Part IV and Part V and maintained by the insurance agent shall be retained for a period of at least seven years from the end of the year to which they relate or after the completion of the transaction as the case may be.

PART VII – TERMINATION OF LICENCE

13. Termination of licence

- (1) The Commission may terminate the licence of an Insurance Agent at the request of an Insurer where there is a -
 - (a) mutual agreement between the Insurer and the Insurance Agent to that effect; or
 - (b) breach of the written agreement specified in Rule 7 (3) by the Insurance Agent.
- (2) The Commission shall not terminate a licence unless it gives the Insurance Agent -
 - (a) prior notice of its intention and the reasons for doing so;
 - (b) the date on which the termination is to be effective; and
 - (c) an opportunity to make representations on the matter within 30 days of receipt of such notice in case of a termination under paragraph 1 (b).
- (3) An insurance agent shall surrender its licence to the Commission within -
 - (a) 15 days of receipt of the notice issued under paragraph (2) in case of a termination under paragraph 1 (a); or
 - (b) such period as may be specified by the Commission in case of a termination under paragraph 1 (b).
- (4) The termination of a licence shall become effective on the date specified in paragraph 2 (b) or on such other date as may be specified by the Commission.

14. Effect of suspension or revocation or surrender or termination of licence

- (1) Subject to the Act, an insurance agent shall cease to act as an insurance agent on and from the date of suspension or revocation or surrender or termination of the licence.

- (2) Subject to paragraph 3, an insurance agent whose licence has been suspended or revoked or surrendered or terminated, shall disclose to the insurer immediately all details of policies being served in respect of contracts already concluded and all the details of clients where the proposals have not resulted into a policy to enable the insurer (s) to make suitable arrangements.
- (3) An insurance agent whose licence has been suspended or revoked or surrendered or terminated shall, in accordance with Rule 6, immediately settle all the monies held in the bank accounts which are due to the insurer and to the clients.
- (4) An insurance agent shall, on settlement of all the monies due to the insurer and to the clients, obtain a clearance certificate from the insurer to enable it to submit to the Commission and to apply for a licence as insurance agent for another insurer, if required.
- (5) Notwithstanding the fact that the licence of an insurance agent has been revoked or suspended or surrendered or terminated, the insurance agent who remains under any liability to an insurer or client shall take such measures as may be necessary or as may be required by the Commission to ensure that reasonable provision has been or will be made for that liability.
- (6) The Commission may, at the time of suspending or revoking or surrendering or terminating the licence, impose such conditions, restrictions and limitations as it deems fit.

PART VIII - MISCELLANEOUS

15. Obligations of an insurance agent

- (1) Without prejudice to any other enactment, an insurance agent shall obtain the consent of the client in the form specified in the First Schedule and retain the record for the term of the contract or up to policy expiration, whichever is later.
- (2) An insurance agent shall provide the client with a duly filled in and signed copy of the form specified in paragraph (1) immediately after receiving the premium payment for the proposed risk coverage.

16. Commencement

These Rules shall come into operation on (dd/ mm/ yyyy)

Made by the Financial Services Commission on (dd/ mm/ yyyy)

FIRST SCHEDULE

(Rules 7 (2), 8(3) [as applicable] and 14(1))

CLIENTS: STANDARD INSURANCE AGENT DISCLOSURE

1. Do not sign any insurance agent disclosure agreement unless all of its blank lines and spaces have been filled-in and you have read this entire document and the agreement carefully.
2. Your insurance agent represents the insurer, and is entitled to commission for its services which is included in the premium quoted for the insurance contract. The commission which the insurance agent is entitled to is not set by law.
3. Refer to your insurance agent agreement to look for the commission the insurance agent is entitled to with regard to the services under consideration;
4. You are entitled to obtain and keep a completed copy of this disclosure and any insurance agent agreement you sign.

The insurance agent disclosure document shall include all the required information on the services provided by the insurance agent along with the following:

1. The parties to this agreement are _____ ("CLIENT")
and _____ ("AGENT")
2. The insurance agent is entitled to commission for the services rendered and is included in the premium that has been quoted by the insurer.

S.NO	DESCRIPTION	DUE DATE OF PREMIUM	COMMISSION AMOUNT RS
1	INITIAL PREMIUM		
2	SUBSEQUENT PREMIUMS		

3. The following are the due dates for payment of premium and the corresponding premium amounts in connection with current placement of client's insurance (non-payment of premium shall be subject to the provisions of Livre Troisième, Titre Douzième , Chapitre Troisième of the Code Civil Mauricien).

S.NO	DESCRIPTION	DUE DATE OF PREMIUM	PREMIUM AMOUNT RS
1	INITIAL PREMIUM		
2	SUBSEQUENT PREMIUMS		

4. The insurance agent shall remit the premium collected from the client on _____ (dd/mm/yy) to the insurer within _____ days from the date of signing the agreement.

5. The insurance agent has explained in detail and provided the details of all the available products with the insurer, their coverage, the commission levels, terms and conditions for review of the client.
6. The client is in agreement with the insurance services with respect to the product, its coverage, terms and conditions that have been advised by the insurance agent.

Client Signature

Date

Insurance Agent Signature

Date

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**SECOND SCHEDULE:
FORM I
(Rule 9(2)(b))**

1. NAME OF INSURANCE AGENT

2. DETAILS OF INSURANCE AGENT:

Category of insurance agent: (Tick the relevant box)	General Insurance Agent:		
	Long Term Insurance Agent:		
	General Insurance Agent and Long Term Insurance Agent		
Name of the Insurer(s)	General / Long Term Insurance Company		
Licence number			
Date of licence: issue/renewal	Date	Month	Year

3. INSURANCE AGENT PREMIUM ACCOUNT FOR THE FINANCIAL YEAR ENDED dd/mm/yy

S.NO	DETAILS		Rs.
	PART I		
1	BALANCE OF ACCOUNT AT BEGINNING OF FINANCIAL YEAR		
	PART II		
	INSURANCE AGENT PREMIUM ACCOUNT TRANSACTIONS		
	Money Received During Financial Year		
2	Premiums		
3	Refunds to client		
4	Interest credited in the account		
5	Others (to be specified)		
6	TOTAL MONEY RECEIVED (2 +3 + 4 + 5)		
	Money Withdrawn During Financial Year		
7	Premiums		
8	Claims money		
9	Commission received, if any		
10	Interest remitted to insurer		
11	Other approved withdrawals		
12	TOTAL MONEY WITHDRAWN (7 + 8 + 9 + 10 + 11)		
	PART III		
13	BALANCE OF ACCOUNT AT END OF FINANCIAL YEAR		

Signature			
Name			
	Agent	Director	Director
	In case agent is a natural person	In case agent is a corporation	

Notes:

1. Name of bank(s) and account number(s) of the Insurance Agent Premium Accounts
2. Breakdown for the following items:
 - (a) Others (Row 5);
 - (b) Commission received (Row 9), and
 - (c) Other approved withdrawals (Row 10).

Instructions for completion of Form:

1. An insurance agent shall complete a separate form for each category of licence and for each insurer.
2. All amounts shown in this Form are to be rounded up to the nearest Rupee.

SECOND SCHEDULE:

FORM II

(Rule 9(2)(c))

1. NAME OF INSURANCE AGENT

2. DETAILS OF INSURANCE AGENT:

Category of insurance agent: (Tick the relevant box)	General Insurance Agent:		
	Long Term Insurance Agent:		
	General Insurance Agent and Long Term Insurance Agent		
Name of the Insurer (s)	General / Long Term Insurance Company		
Licence number			
Date of licence: issue/renewal	Date	Month	Year

3. DETAILS OF BUSINESS ACTIVITY FOR THE FINANCIAL YEAR

Long Term Insurance Business

S No	Category / Class	Rate of Commission (% of GPW)	No of proposals resulted into policies during the year	No. of policies lapsed out of (4)	Gross Premium Written Rs	Commission Received	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Life assurance business						
	Name of the Product						
2	Pension business						
	Name of the Product						
3	Permanent health insurance business						
	Name of the Product						
4	Linked long term insurance business						
	Name of the Product						

General Insurance Business

S No	Category / Class	Rate of Commission (% of GPW)	No of proposals resulted into policies during the year	Gross Premium Written Rs	Commission Received Rs	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Accident and health policy					
2	Engineering policy					
3	Guarantee policy					
4	Liability policy					
5	Miscellaneous policy					
6	Motor policy					
7	Property policy					
8	Transportation policy					

**SECOND SCHEDULE:
FORM III**

(Rule 10(2))

**CERTIFICATE OF ACCOUNTS OF *(name of insurance agent)*
FOR THE FINANCIAL YEAR ENDED *(dd/ mm/ yyyy)***

We, the undersigned, hereby certify that in our opinion and to the best of our knowledge the asset set forth in the balance sheet are fully of the value stated in the balance sheet and that in the relevant financial year, the professional indemnity insurance in accordance with section 70 (5) (c) of the Act and any other relevant regulations, FSC rules or guidelines have been complied with; and that no part of the assets has been dealt with in contravention of Rule 5.

Signature			
Name			
	Agent	Director	Director
	In case agent is a natural person	In case agent is a corporation	

Date

**SECOND SCHEDULE
FORM IV**

(Rule 11(1))

**REPORT OF THE AUDITORS APPOINTED TO AUDIT THE ACCOUNTS OF THE
INSURANCE AGENT BUSINESS OF _____ FOR
THE FINANCIAL YEAR _____ TO _____**

1. We have examined the attached audited financial statement as at _____, and insurance agent premium accounts for the financial year.
2. Our audit was carried out in accordance with requirements of the Companies Act 2001 for the purpose of expressing our opinion on the accounts. Our examination was necessarily conducted on a test basis and included such samples as we deemed appropriate. In this connection, we have reviewed the accounting system and system of internal controls in operation and reliance has been placed on internal controls where appropriate (applicable for corporates).
3. In our opinion and to the best of the information and according to the explanations given to us -
 - (a) the audited financial statements and the insurance agent premium accounts have been prepared in accordance with the provisions of the Insurance Act 2005, regulations and FSC rules made thereunder;
 - (b) the balance sheet represents a true and fair view of the financial position of the business of the insurance agent; and
 - (c) the books of the insurance agent have been properly kept and recorded fairly the affairs and transactions of the insurance agent in respect of that business.
4. As far as can be ascertained from our examination, in our opinion-
 - a) the appropriate professional indemnity insurance required under section 70 (5) (c) of the Act and any other relevant regulations, FSC rules or guidelines is effective;
 - b) insurance agent premium accounts have been established and maintained in accordance with Rule 5 of the Insurance (Insurance Agents) Rules 2008.

Name and signature of audit firm

Name and signature of signing partner

Date