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Insurance Broker Remuneration – 5 Legal Considerations

1

Commission Documentation

Brokers should ensure that all commission, remuneration and financial benefit arrangements with insurers is appropriately documented to include:

- review process
- dispute process for conflict about remuneration
- post - termination payments
- detail of each component of remuneration such as contingent remuneration, monetary or non-monetary benefits, profit share commission, volume bonuses, or any rebates arising from a membership group and indirectly from participating insurers

2

Contingent Remuneration

Inherent conflicts between the interests of clients and the brokers must be appropriately managed and remuneration must be properly disclosed.

If there are inherent conflicts, then brokers must not receive commission, remuneration or any benefit from insurers that are based on or contingent upon:

- the number of insurance contracts arranged
- the total amount of premium payable
- the total amount of sums insured

3

Conflicts of Interest

Brokers must have robust arrangements and written procedures to manage potential conflicts of interest and associated remuneration. It is critical that the disclosure of conflict is timely, specific, prominent and meaningful.

Disclosure is important if the remuneration structure includes:

- a preferential remuneration arrangement
- an override component
- other incentives for referral business

Remember - regulators have the power to requisition a copy of written procedures.

4

Conflicted Remuneration and Commission Caps

A 'conflicted remuneration' ban applies when giving of personal or general advice to retail clients.

It has limited application to general and life risk insurance brokers and advisers.

Conflicted remuneration captures benefits to an AFS licensee (or representatives) where the nature of the benefits, could be expected to influence the choice of certain recommended financial products.

For life insurance products, a new statutory regime applies which sets a commission cap and imposes a clawback arrangement requiring amounts to be repaid if a life policy is cancelled within the first two years of the policy period.

5

Commission Disclosure

The fee charged for broker services and commission payable must be disclosed to clients before insurance services are provided.

Where relevant, when advising retail clients, an FSG and SOA must disclose sufficient information about:

- contingent remuneration
- non-monetary benefits (such as entertainment, gifts, sponsorship, access to IT and other resources)
- indirect benefits received from insurers

The term 'independently owned', 'independent', 'impartial' or 'unbiased' to describe broker services must not be used where it is contrary to commission arrangements or where potential conflict of interest is apparent.

If you have any specific questions about your remuneration arrangement or structure or have any other issues or concerns relating to regulatory compliance, please do not hesitate to contact the Meridian Financial Services Team.