



# BANK NEGARA MALAYSIA

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Bilangan Kami: Surat Pekeliling JPI: 18/1997

26 Mac 1997

Ketua Pegawai Eksekutif,  
Syarikat-syarikat Broker Insurans.

Tuan,

## Subseksyen 185(2) Akta Insurans 1996 - Sekatan ke atas Broker Insurans

Seperti tuan sedia maklum, Akta Insurans 1996 (Akta) telah berkuatkuasa mulai 1 Januari 1997. Selaras dengan ini, Bank Negara Malaysia (BNM) ingin menarik perhatian tuan kepada keperluan subseksyen 185(2) Akta seperti berikut:-

"Kecuali dengan kelulusan bertulis daripada Bank terlebih dahulu, tiada seorang pun broker insurans berlesen boleh membayar mana-mana orang yang bukan pekerjanya sesuatu fee atau komisyen, secara tunai atau berupa wang, untuk mensolisit perniagaan pembrokeran insurans bagi dirinya "

2. Sehubungan ini, kelulusan adalah diberikan di bawah subseksyen 185(2) Akta kepada broker insurans untuk membayar fee atau komisyen kepada mana-mana pihak yang mensolisitkan perniagaan pembrokeran bagi pihaknya tertakluk kepada syarat bahawa broker insurans tersebut pada setiap masa mematuhi Garis Panduan Perkongsian Brokeraj/Yuran Broker Insurans (Insurance Brokers' Brokerage/Fee Sharing Guidelines) seperti yang dilampirkan. Kelulusan ini adalah berkuatkuasa mulai 1 Januari 1997



3 Dengan kelonggaran ini, broker insurans adalah diingatkan supaya membuat pembayaran fee atau komisyen tersebut dengan cara yang berhemat dan memastikan pembayaran fee atau komisyen sedemikian tidak disalahgunakan oleh sesetengah pihak untuk kepentingan diri masing-masing.

Sekian, dimaklumkan.

Yang benar,



(Tan Yit Seong)

Ketua Jabatan

Jabatan Pengawalan Insurans

## INSURANCE BROKERS' BROKERAGE/FEE SHARING GUIDELINES

### CITATION

These guidelines which are issued pursuant to subsection 185(2) of the Insurance Act 1996 may be cited as the Insurance Brokers' Brokerage/Fee Sharing Guidelines.

### OBJECTIVES

2. These guidelines are designed to -
  - (a) Promote healthy growth of the broking industry.
  - (b) Ensure that sharing of brokerage/fee in any form does not affect or result in:-
    - (i) Breach of the Code of Ethics and Conduct and other rules of the Insurance Brokers Association of Malaysia (IBAM), guidelines issued by Bank Negara Malaysia (BNM) and the laws of Malaysia,
    - (ii) Any deterioration of the standard of professional service to clients; and
    - (iii) Conflict with national objectives, lack of transparency and possible conflict of interests
  - (c) Have a uniform and sound basis of brokerage sharing for observance by all members of IBAM

## DEFINITION

3. Brokerage/Fee sharing can take the following forms:-

(a) **Co-Brokers/Brokers Consortium**

Brokerage/fees may be shared between two (2) or more appointed Malaysian brokers where an account is managed on co-broking or brokers consortium basis

(b) **Business Introducer**

A broker's business introducer may be an individual person or a body corporate (and include any subsidiary or associate of the client's company or its co-operative as the case may be) and include broker's overseas associate or any other foreign broker. The business introducer works to assist the broker to secure the business. The business introducer may assist in public relation work and in securing the payment of premium to the broker as well as any other work that the broker may from time to time assign to him. Overseas brokers may also provide technical expertise input and assistance in securing and servicing of an account so introduced.

(c) **Technical Assistance**

A Malaysian broker may pay a percentage of the brokerage/fee for the services of a foreign broker in the procurement or servicing of a specialised class of insurance namely aviation/space, oil and gas/energy, marine hull/liability, or such other class of risks as determined to be specialised in accordance with The Large and Specialised Insurance Scheme

#### General Guidelines Governing Brokerage/Fee Sharing

4. (a) There shall be no sharing of brokerage/fee otherwise than as provided for in these guidelines.
- (b) An arrangement for sharing of brokerage/fee must be in a written form of agreement, and duly approved by the management and subsequently tabled and approved/duly noted by the broker's board of directors.
- (c) All payments in respect of brokerage/fee sharing must only be out of the brokerage received on such specific account introduced and must not be from:-
  - (i) total brokerage income of the broker; or
  - (ii) any dual rating structure.
- (d) The agreement on brokerage/fee sharing must specify:-
  - (i) the client or account in respect of which the brokerage/fee is being shared;
  - (ii) the basis of sharing and its duration or tenure,
  - (iii) the form and manner of payment of brokerage/fee,
  - (iv) terms of reference, responsibility and authority of each party,
  - (v) agreed method of solving any disputes or problems arising from the agreement;

- (vi) terms of termination of agreement during its tenure; and
  - (vii) that business introducers are not permitted to collect premiums. The collection of premium is primarily the responsibility of the broker.
- (e) The agreement must ensure that the broker primarily responsible for the account shall have sufficient brokerage to meet the costs of servicing the clients while maintaining the required professional standards, subject to a minimum brokerage as stipulated under items 5(a)(vi), 5(b)(ii), 5(b)(iii) and 5(c).
- (f) A broker may refer any differences or problems relating to the interpretation of these guidelines to BNM for deliberation and approval.
- (g) The objectives stated in item 2 shall form part of the general guidelines.
- (h) The broker must declare and must obtain an acknowledgement receipt thereof at the end of each financial year all payments of introducers' fees to the Inland Revenue Department or any other Government Bodies as may be required by any law/guideline

#### Specific Guidelines for each Category of Brokerage/Fee Sharing Agreement

5 In addition to the general guidelines, the following guidelines shall also apply to each category of brokerage/fee sharing agreement:-

(a) Co-Brokers/Brokers Consortium

- (i) There must be concrete evidence that professional service has been rendered by the licensed brokers/consortium of brokers.
- (ii) All transactions including payment of brokerage sharing fees must be transparent.
- (iii) Any agreement between the brokers shall contain no provision to the detriment of the client.
- (iv) The agreement shall specify the lead broker.
- (v) There shall be a provision in the agreement that decisions shall be by consensus, but where there is any disagreement, the majority (determined by the percentage of brokerage/fee sharing or any other agreed method) shall prevail, with the lead broker having one extra vote in the case of a 50-50 situation.
- (vi) Where an overseas broker secures an overseas account through an introduction made by the Malaysian broker, the Malaysian broker shall endeavour to secure a brokerage/fee of not less than 30% of direct brokerage/fee, subject however to prevailing laws/legislation in that country as the case may be

(b) **Business Introducers**

(i) The following persons/body corporate shall not qualify as a broker's business introducer:-

- The broker's own employees including directors unless the agreement on brokerage sharing forms part and parcel of the remuneration package of such employee or director and was duly approved by the board of directors;
- Immediate family members, servants and agents of the broker's own employees and directors. These shall include employee's/director's spouses, children, parents and household servants;
- Any other company in which any employee/director of the broker is having controlling interest unless this is made known and approved by the broker's board of directors;
- In respect of the broker's client itself, the client's own employees/directors including their immediate family members as stated above; and
- Any company where any person as defined above has controlling interest, unless expressly approved by the board of directors of the broker's client.

- (ii) Where a Malaysian client is secured through the introduction and/or assistance of the <sup>broker's</sup> associate broker overseas, or any other foreign broker, the <sup>Malaysian</sup> broker shall retain a minimum of 70% of all direct brokerage/fee on the specific account introduced.
- (iii) To ensure that the broker's service is <sup>adequately</sup> duly compensated and not unduly affected, <sup>the</sup> the minimum brokerage/fee that <sup>the</sup> the broker retains for itself shall not be less than 70% of the total direct brokerage/fee on the specific account introduced.
- (iv) No <sup>business introducer</sup> business introducer is allowed to work for more than one (1) broker on any one specific account.

(c) Technical Assistance

Where an account is secured with the assistance of a foreign broker who provides technical expertise, input and/or related services in securing and servicing the account, the Malaysian broker shall endeavour to retain a minimum brokerage/fee of 70% but may retain any other percentage no lesser than 50% of the brokerage/fee on specialised risks as mentioned in item 3(c) above provided such percentage is approved by the Malaysian broker's board of directors

