

New draft UAE intermediary regulations: an opportunity missed?



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As one of the pillars of a strong economy, the insurance sector needs to be able to provide effective risk management services. Insurance intermediaries are a key part of that supply chain. Whilst the UAE economy has been rapidly developing, regulation in the UAE insurance market has struggled to keep pace. Many industry figures blame the weak regulatory structure for a number of insurance market failings over recent years. To address these concerns, in May 2012 the UAE Insurance Authority (the Authority) issued a consultation document outlining a new regime for the regulation of insurance intermediaries (the Draft Regulations), which would replace the current regulations that date back to the early 1980s.

In summary, the Draft Regulations circulated by the Authority provide for the following:

- (a) A requirement that locally established brokerage firms be registered either as limited liability companies or private joint stock companies;
- (b) Increased capital requirements, financial guarantees and professional indemnity insurance limits will be required from both domestic operations and branches of foreign domiciled brokers;
- (c) New educational and technical standards for broking agents;
- (d) Further regulation and oversight of the way in which relationships between buyers, brokers and insurers are governed and evidenced;
- (e) More prescriptive rules concerning the financial relationships between the parties;
- (f) Further penalties for breach of the Draft Regulations, including deregistration for repeat offenders; and
- (g) A prohibition on transferral of insurance broker licences.

As written, the Draft Regulations do not provide much of an advance on the current position under the 1984 / 2006 legislation. Areas of particular concern include:

1. A failure to recognise and make provision for the different roles that agents may occupy in the market landscape;
2. There is no recognition of broader distribution channels (including bancassurance) and the manner in which insurance

products may be offered as ancillary products, nor is there any regulation of the manner in which referrals and introductions may be dealt with;

3. The Draft Regulations do not deal with the manner in which insurance products can be sold and marketed online, or through white-labelled products;
4. The Draft Regulations do not introduce a comprehensive set of risk-based principles for the conduct of business by intermediaries and the Code of Conduct that was separately issued by the Authority is equally lacking in depth;
5. Whilst the Draft Regulations seek to enhance capital requirements, there appears to be no prudential test as to what capital a broker needs to have available, based on volume and type of business undertaken, nor any attempt to require the broker to monitor this. Professional indemnity limits are similarly rudimentary.
6. Whilst efforts to implement local tests of competence for insurance intermediaries' staff are commendable, without suitable resources such efforts are likely to have little effect;
7. There is no indication from the Authority that they have been actively engaging with other UAE regulators to create a 'joined-up' approach;
8. Concerns regarding transparency, fair dealing, and suspect market practices in the intermediary market, are not addressed; and
9. Company formation, branch licensing and ongoing corporate requirements have not been streamlined in the Draft Regulations, despite the UAE corporate laws themselves being in desperate need of modernisation.

In conclusion, given that other local jurisdictions such as the QFC, the DIFC and Bahrain have developed and adopted a modern regulatory structure for insurance and broking, the UAE risks being left behind. A root-and-branch review of the manner in which intermediaries are regulated is urgently required to promote the UAE as a vibrant and well-regulated intermediary platform in the region.

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