

## Life Insurance Charter of Quality

### PREAMBLE

This Life Insurance Charter of Quality is largely inspired by the ICMA Private Wealth Management Charter of Quality, which lists the guiding principles of best practice adopted by the cross-border private banking industry. The Life Insurance Charter of Quality adopts the same principles whilst adapting them to the particular characteristics of the life insurance wealth management business.

1. The Life Insurance Charter of Quality ("the Charter of Quality") is a voluntary standard of recommended minimum good market practice which should be applied to individual life insurance. It is designed to be consistent with all relevant regulations at an international, European Union and national level, and to complement anti-money laundering directives and principles such as the Wolfsberg Principles on Anti Money Laundering and the Global recommendations of the Financial Action Task Force.
2. The Life Insurance industry typically provides life insurance products to private individuals and their families.
3. The purpose of the Charter of Quality, which has been established voluntarily by a group of life insurers who are also members of Luxembourg Insurance and Reinsurance Association (ACA) or of the national associations that participate in the Syndicat des Compagnies d'assurances, is to set out in a single document the high standards of integrity, transparency and professionalism which participating life insurers meet in their dealings with their clients, counterparties, supervisors and regulators.
4. The Charter of Quality sets forth the functions of life insurers and the internal policies and procedures implemented for the appropriate conduct of their relationships with all external stakeholders. It is understood that the establishment of relevant internal policies and procedures, and the compliance with the Charter of Quality and such internal policies and procedures, respectively, is solely the responsibility of the management of the firms.
5. *The Charter of Quality is a public document. It is posted on the ACA website.*

This charter reflects, in addition to the laws and regulations in effect in the life insurance sector, the spirit in which its signatories intend to act in the various markets in which they operate.

This charter reflects, beyond laws and regulations applicable in the life insurance sector, the spirit in which the signatories of this chart intend to act in different European markets.

The goal of this charter is to adopt rules of conduct in order to preserve the good reputation of, and to support the efforts of, the professionals acting in the sector in order to develop the Luxembourg financial center on an appropriate, sound, professional and efficient basis.

Based on five principle ideas that take into account the characteristics of the sector, this charter guides the market players, signatories of this charter, on:

1. Integrity in business relations with clients, as well as partners and competitors. The same integrity is expected from the staff employed by the players of the sector.
2. Exemplary nature of the practices and loyalty of the players in the implementation of their means of action.
3. Compliance with local or foreign regulatory requirements applicable to the players.
4. Players must refrain from conduct facilitating mechanisms helping tax evasion.
5. Treating clients' complaints according to the European EIOPA standards.

The signatories of the Charter of Quality have adopted the following principles and requirements:

## 1. Principle of integrity and probity

### 1. 1. Integrity in business relations

#### 1.1.1. Knowledge of clients

Life insurers ensure that they have good knowledge of their clients by the following methods:

- *Identification*: Life insurers take the necessary actions to establish the identity of their clients and beneficial owners before conducting any transaction. Knowledge of private individual clients by the life insurers or the intermediaries is necessary. For corporate entities, the ultimate beneficiaries and persons in control of funds have to be identified. Professionals shall before concluding the contract, relationship document the tax residence of their clients in order to provide them with general tax information relating to the contract and the beneficial owners transactions which will be conducted thereunder.
- *Diligence*: Life insurers collect the necessary information on their clients or, which may include their domicile, their personal data, the reason and purpose of concluding a life insurance contract, the economic origin of the wealth and an estimate of it, the source of transferred funds and the future trend or use of the life insurance contract.
- *Types of business relations*: Life insurers do not accept anonymous contracts or to pay a capital on an anonymous account.
- *Regularly updated records*: Life insurers ensure that they have up-to-date information about their clients. *By providing monitoring of transactions under the contracts, the company shall ensure that it examines the existence of any evidence which may contradict the statements initially provided by the client.*

#### 1.1.2. Prevention of money laundering, financing of terrorism and external fraud

- *Appropriate organisation*: Life Insurers establish policies and procedures for preventing money laundering and other criminal activities.  
They put in place an efficient mechanism of transaction analysis and fraud detection. An employee responsible for money laundering prevention is appointed in the organization. This position is usually separate from operational and commercial departments.
- *Co-operation with authorities*: Life insurers co-operate with the authorities and make the declarations and disclosures if they suspect criminal activities.
- Professionals shall exercise vigilance in the relationship with their clients, in particular to identify the source of funds and any information which makes it possible to identify the purpose of entering into a business relationship.

#### 1.1.3 Agreement to not use mechanisms that promote tax evasion

- *Traceability of transactions*: Any payment of premiums in cash, certificates or securities shall comply with the reporting obligations applicable to the matter. If a request is made by their clients to obtain payment for services (repurchase, death benefit) in cash, certificates or securities, the companies shall inform such clients of the reporting requirements for which the clients are responsible.
- *Tax compliance*: Each professional is required to adopt a procedure in order to obtain the reasonable assurance that his/her clients comply with the tax obligations applicable to them. Good practice consists specifically in obtaining a statement of tax compliance by the client which may be, if applicable, documented based on the circumstances of the case.

In accordance with the measures taken by each professional in order to have a reasonable assurance of compliance with tax obligations by their clients, the latter shall be informed that the professional will not conduct transactions or offer services aimed at enabling them to avoid or evade their tax obligations.

In any event, professionals shall ensure that they avoid any situation in which they might be used for illegal tax purposes.

## **1.2. Probity of distribution channels, distribution markets and contract law**

### *1.2.1. Probity of distribution channels and distribution markets*

Life insurers ensure that their first priority is that life insurance contracts and services provided are compliant with the local regulations applied in the freedom of services business or on the local market. They establish rules for this purpose:

- meeting clients' needs,
- appoint the fiscal representative in specific countries where applicable,
- comply with laws and regulations which form part of the "General Goods" rules of the country of residence of the policyholders applicable to the business sold,
- comply with current distribution and intermediation rules.

Professionals shall ensure to have an appropriate organisation in place which makes it possible to identify and prevent risks of non-compliance of their products related to various applicable legal and tax regulations. Prior to any distribution of new products, companies shall establish internal procedures formalising compliance of their products based on different opinions (internal and/or external).

Any provider of financial services must avoid to actively, systematically or knowingly contributing to tax evasion or any action contrary to the laws and regulations of the jurisdictions under which services are provided. Life insurers undertake to make available to their clients data enabling them to complete their tax declaration.

## **1.3. Integrity of staff**

### *1.3.1. Recruitment criteria*

Life insurers undertake to recruit staff who demonstrate high standards of integrity and ethics.

### *1.3.3. Prevention of internal fraud*

Life insurers take measures to prevent the risk of internal fraud: such measures may include *inter alia* security rules related to fund transfers, signature-process rules, monitoring of transactions and proper training.

### *1.3.4. Internal control*

Life insurers ensure an effective control environment is maintained. External audit together with internal audit and other independent control functions assisting in validating life insurer relevant policies and procedures. For this purpose independent inspection bodies for operational and commercial departments or insurers' own internal audit and control functions may be necessary to check on an on-going basis the proper application of principles of integrity.

## 2. Probity/Conformity

### 2.1. Towards clients

Life insurers make available to their clients at the outset a clear, appropriate and complete information regarding the product being provided. Information may contain *inter alia*:

- an annual reporting
- tax calculation details if required
- any document necessary to complete the client's tax declaration

Generally, professionals shall provide their clients any information necessary to document the contents of their contract and pay their tax obligations, specifically by providing them situation statements which will enable them to file their tax return required by the applicable legislation.

In order to achieve this objective, companies shall adopt procedures to ensure the possibility for their clients to personally take notice on a written or durable medium<sup>1</sup> of information related to the successful completion of their reporting obligations within the legal deadlines.

Professionals must ensure that any documents they send to their clients give an accurate view of the contract situation as entered in their books.

In order to enable their clients to comply with their tax obligations throughout the contract term, companies shall recommend their clients that they should obtain information from their own legal or tax advisor based on their personal situation of any possible tax changes which may apply to their contract.

In event that companies are informed by their clients of a change of tax residence, the companies shall ask their clients to meet with a tax advisor in order to examine the consequences of this transfer on their existing contract.

### 2.2. Regarding the regulatory environment

#### 2.2.1. Guaranteed access to information on request

Life insurers provide the relevant regulatory and other authorities of the jurisdictions where they are established access to any information that they require within the framework of currently applicable data protection legislation and to the extent permitted by relevant law and regulation governing disclosures to be made to the authorities. This guarantee covers any information given in accordance with the relevant law and regulations in the jurisdictions where customers' contracts are held. The information issued is strictly limited to the request made and must not jeopardize the rules of confidentiality.

Where applicable, life insurers also undertake to meet their obligations for the administrative exchange of information.

#### 2.2.2. Collection of taxes

Life insurers undertake to ensure the collection of taxes that they have an obligation to collect.

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<sup>1</sup> Medium other than paper as long as the following conditions are respected:

- a) the provision of this information in this medium must be appropriate to the context in which business is, or will be, conducted between the service provider and the client; and,
- b) the person to whom the information must be provided, after the choice between the provision of the information on paper or such other durable medium has been offered specifically opts for the provision of the information on such other support.

A USB key or the secured part of a Web site, to which only the client concerned has access, constitute an example of a durable medium other than paper.

A means of electronic communication to provide information to the client shall be deemed appropriate to the context in which business is, or will be, conducted between the service provider and the client if it is proven that the client has regular Internet access. The provision by the client of an electronic address as a means of communication for purposes of conducting its business with the service provider constitutes proof of such regular access.

### 3. Professionalism

#### 3.1. Primacy of clients' legitimate interests

Life insurers apply this principle to all the transactions that they conduct for their clients, in particular in the following fields.

##### 3.1.1. *Respect for privacy and professional discretion*

Life insurers maintain a tradition of respecting privacy and exercise professional discretion while abiding by the laws of the country where they are established. They establish rules protecting the confidentiality of client information in all formats. They put in place policies and procedures intended to safeguard this information, in particular:

- measures to protect confidential data,
- restrictions on the disclosure of information limited to those who "need to know",
- access rules for staff to buildings, systems and IT tasks,
- rules of access to buildings for outsiders.

In addition, regular training is available to staff on data management and security for the purposes of continuing professional development, including the need for discretion in the performance of work.

##### 3.1.2. *Complaints management*

Life insurers implement appropriate arrangements for complaints management in order to handle any customer complaints. Life insurers inform their clients on how to file their complaints. The client's complaint may be addressed, without prejudice to the right to pursue other legal action within the applicable judicial system, to the Commissariat aux Assurances (CAA) or to the ACA mediator.

#### 3.2. Professionalism of tax advisers

##### 3.2.1. *Prior verifications*

When companies decide to outsource essential services related either to distribution, administrative and/or financial management of their contracts, they agree to verify in advance the professionalism of service providers through a formal and documented qualification procedure containing criteria related specifically to their approval and to their reputation.

##### 3.2.2. *Implementation of the obligations*

The obligations of service providers shall be set forth in a written agreement covering at least compliance with quality standards related to the performance of their duties at the level of provision of advice as well as their AML/CFT reviews. With respect to obligations related to the distribution of their products, particular attention shall be paid to tax compliance of the clients and of the assets used to pay the premium.

### 3.3. Efficiency

#### 3.3.1. Efficiency of provision of information to clients

Life insurers ensure the quality of the information sent to clients and the services they render. This applies in particular to:

- the complete up-to-date character of any reports they make,
- time-efficient processes for settling any transactions they carry out,
- data provided on time for tax reporting purposes,
- the accuracy and fairness of any calculations,
- clarity of information.

Professionals shall ensure that information for clients is presented in documentation using clear, correct terminology which is not misleading.

#### 3.3.2. Efficiency of staff

Life insurers permanently ensure that their staff acts in the clients' best interests:

- with responsibility,
- with competence,
- in compliance with professional rules.

For this purpose life insurers make training available for their staff.

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