

# Insurance companies

Amjad A Khan and Charles S Laubach

*Afridi and Angell, Dubai*

akhan@afridi-angell.com

claubach@afridi-angell.com

The Ministerial Resolution No 206 of 2004, promulgated by the Federal Minister of Economy and Commerce, established new rules on disclosure and transparency for insurance companies offering policies in the UAE. In general the new resolution requires all insurers to observe disclosure and transparency in their transactions with their clients and in respect of all policies, papers, publications, announcements, advertisements, articles and materials that they issue.

Any announcement issued to the public must be factually accurate. It must set forth information accurately and clearly so as to facilitate understanding and evaluation, and any data and statements that it contains must be accurate. An announcement pertaining to an insurance policy must be clear, leaving no room for doubt as to the effects thereof. Exaggeration that goes beyond the wording of the policy must be avoided. Announcements may not contain any misleading or untrue statements concerning the financial position of the company, nor may untrue statements be issued about other companies that are harmful to their reputation. The name of the insurer must be clearly stated along with a detailed description of the type of policy that is the subject of the announcement.

Special requirements apply to insurers that issue life insurance policies or savings and investment policies. These insurers are prohibited from issuing misleading information on the value of the policies as collateral security for mortgages or loans. They are required not to withhold important information and not to use words, expressions, or explanatory data or to place names, addresses or descriptions on policies that could mislead or deceive purchasers of policies and prospective customers as to the nature, term of paid privileges, terms of coverage or applicable premiums. The company must disclose any policy conditions that may lead to restriction, reduction or forfeiture of the nominal value of the policy. The announcement must not contain any misleading statements on profits or returns. Such announcements may not offer biased or incomplete comparisons with the benefits of other insurance policies, may not intentionally disparage competitors or their insurance services, policies or business practices, and may not disparage or belittle their competitiveness in the insurance market. Such announcements may not suggest that a special or advance offer is being extended, that the purchaser of such policy will obtain any privileges that will not be

given later, or that the offer is made or available to only a limited group of persons, for a limited group of policies or for a limited period of time, unless this is in fact the case. Such announcements may not reference restricted privileges available to a certain category or for a limited period of time. The announcement should focus on the benefits of the insurance and not merely the investment benefits. Any application form printed on an announcement that is sent by mail must fully comply with the particulars of the approved application form.

Insurance and reinsurance companies are prohibited from directly or indirectly publishing or distributing false or misleading information in their advertisements in the audio, visual or print media. Insurance companies are prohibited from publishing articles or educational materials that contain false information.

Insurance companies are prohibited from entering materially false or misleading data in any records or reports on their various insurance activities and submitting the same to the concerned official authorities in the UAE.

All insurance companies must maintain complete files in their head offices containing photocopies of all of the advertisements that they have issued for a period of not less than five years. Each insurance company must submit, along with the data that it submits annually to the Ministry of Economy and Commerce, now known as the Ministry of Economy and Planning, a duly signed declaration that all of the announcements issued by the company during the previous year were in compliance and agreement with the provisions of this Resolution. The Ministry has the authority to demand a sample of any announcement for approval prior to publication thereof. The insurance company shall bear complete responsibility for any particulars in contravention of the requirements of this Resolution that may deceive the public and it must publish an announcement at its own expense, pursuant to the request of the Ministry, correcting the particulars in accordance with such amendments as may be determined by the Ministry. If the company fails to publish a correction, then the Ministry may undertake such publication at the company's expense.

In dealing with their clients, insurance companies are bound by the principles of protection of the clients' interests and achievement of balance among those who have similar insurance positions. Insurance companies may not discriminate among their life insurance or savings and investment policy holders in the pricing,

terms or privileges of policies except based upon actuarial and technical principles. They are also prohibited from denying renewal of a policy or limiting the amount of the insurance unless done in accordance with actuarial and technical principles relating to anticipated losses or for reasons of breach by the insured of his or her obligations. An insurance company must notify the Ministry of any customer application that it denied or refused to renew, setting forth the grounds for such denial or refusal, and of any termination that it undertook for reason of customer breach within no more than 30 days from denial of insurance or renewal or policy termination.

The Resolution also imposes obligations on insurance companies with respect to pricing. An insurance company operating in the UAE must observe sound technical principles in pricing its policies, to avoid over pricing and to ensure fair pricing. An insurance company may not under price with the intent of obtaining business to an extent that would harm the insurance industry. An insurance company shall abide by the charges established by the Ministry for the uniform automobile insurance policies for loss, damage and third party liability.

Insurance companies must notify the Ministry of proposed prices, attaching details of the technical and actuarial bases from which such prices are derived, no less than 30 days before such prices will be applied, for review thereof in light of the following technical and actuarial standards:

- (1) data pertaining to paid claims and claims under settlement, and the reliability of such data for projection of losses;
- (2) losses experienced in the most recent five year period; and
- (3) the volume of large claims previously experienced and the reoccurrence thereof.

Insurance companies are required to submit copies of new insurance policies to the Ministry for prior approval. These must be accompanied by a statement of the market in which the policy will be offered, a statement of the insurance coverage that the policy provides, subscription criteria, a copy of the policy application and any other documents requested by the Ministry.

When issuing an insurance policy, an insurance company must write the policy information in a simplified style that may be easily understood, without using vague terminology that may create uncertainty. The policy must:

- include all of the provisions governing the relationship between the insurer and the insured or the beneficiaries;
- describe the insurance coverage accurately and set forth the amount of coverage clearly and unambiguously;
- state the procedures that the insured or beneficiary must follow upon the occurrence of a casualty to obtain benefits from the insurer; and

- be printed clearly and legibly and specify the percentage or amount of any deductibles.

An insurance policy may contain an arbitration clause in a separate schedule to the policy. Any forfeiture provision must be written clearly and prominently or it shall be deemed void pursuant to Article 1028 of the Civil Code. The policy must provide that it may not be amended except with the consent of both parties. If the policy provides for withdrawal of coverage for failure by the insured to pay a premium, such clause must be written clearly and legibly. A policy that relates to multiple linked units must provide for periodic notification to the client of the investment position, and the insurer must notify the Ministry of the investment results of such units on the 30 June and the 31 December of each year.

If the insured event occurs, the insured or the beneficiary, as the case may be, must notify the insurer and demand payment of benefits within ten days of the occurrence or knowledge thereof, unless the policy sets forth a different time period.

The insurer must submit to the claimant or his representative a form including all of the necessary provisions and statements, containing particulars showing the name of the insurer, its address, the location of its claims department, the insurance policy number, the claim number, and a clear statement of the right of the client to raise the matter with the Ministry.

The insurer must begin examination of the claim within 15 days from the date of notice. Such period may be extended to 30 days if the expert is unable to submit his report for reasons beyond his control.

The insurance company must notify the insured or the beneficiary of the acceptance or rejection of the claim within 15 days from the date of receipt of all documents related to the claim. The insurer must pay the insured or the beneficiary fair compensation in accordance with the conclusions of its examination of the claim in accordance with the provisions of the policy up to the policy limit set forth in the policy, without negotiating. If the insurer denies the claim, whether in whole or in part, it must state reasons for such denial. It may not base refusal merely upon the failure of the insured or beneficiary to take the required procedures or submit the required statements unless the same are required to verify the occurrence of the casualty or to determine the quantum of damage resulting from it. In accordance with the policy, the insurer may itself undertake repair or restoration of the insured property, and such shall be done rapidly and properly. If the claim is denied, then the insurer must notify the insured or the beneficiary of the causes of denial.

In the event of multiple heads of claim, some but not all of which are disputed, the client shall have the right to demand payment under the undisputed heads pending final settlement.

The insurer must maintain a special file for each claim, including all correspondence, proceedings,

observations, and any other relevant documents for easy evaluation upon review by examiners and controllers.

Insurance companies must maintain files for registration of complaints submitted by insured persons or beneficiaries in which shall be entered the date of submission of the complaint, its sequence number, the name of the complaining party, the insurance policy, a summary statement of the subject matter of the complaint, and a statement of the documents submitted in support of the complaint.

The company must open a separate file for each complaint in which shall be filed all of the papers related to the complaint. The company must examine the complaint and resolve it within 15 days of submission and full documentation. It must issue its decision to

accept or reject a complaint. It must enter a summary of the decision in the register of complaints and notify the Ministry thereof and the grounds therefore within 15 days from the date of the decision in respect of a complete or partial denial of claim. Ministry inspectors shall have the right to review complaint files of every company to verify regular entry thereof and may also review the file of any complaint that may have been resolved to verify the validity of the grounds given by the company as a result of examination of the complaint. The insured or the beneficiary may resort to the Ministry for any denial of payment by the insurer.

*This article is reprinted with permission from the Afridi and Angell Newsletter*

## It's Your IBA

As a professional membership organisation, the IBA is keen to ensure that we provide services, benefits and opportunities that fulfil the expectations and wishes of our members.

If you have comments and thoughts about what is currently offered, we would be delighted to hear from you. If you have suggestions on how we can expand and improve the programme of activities, or you would like to know how you could get more closely involved in the Association, please do contact us at [feedback@int-bar.org](mailto:feedback@int-bar.org).

### Terms and Conditions for submission of articles

1. Articles for inclusion in the newsletter should be sent to the newsletter editor.
2. The article must be the original work of the author, must not have been previously published, and must not currently be under consideration by another journal. If it contains material which is someone else's copyright, the unrestricted permission of the copyright owner must be obtained and evidence of this submitted with the article and the material should be clearly identified and acknowledged within the text. The article shall not, to the best of the author's knowledge, contain anything which is libellous, illegal, or infringes anyone's copyright or other rights.
3. Copyright shall be assigned to the IBA and the IBA will have the exclusive right to first publication, both to reproduce and/or distribute an article (including

the abstract) ourselves throughout the world in printed, electronic or any other medium, and to authorise others (including Reproduction Rights Organisations such as the Copyright Licensing Agency and the Copyright Clearance Center) to do the same. Following first publication, such publishing rights shall be non-exclusive, except that publication in another journal will require permission from and acknowledgment of the IBA. Such Permission may be obtained from the Head of Publications at [editor@int-bar.org](mailto:editor@int-bar.org).

4. The rights of the author will be respected, the name of the author will always be clearly associated with the article and, except for necessary editorial changes, no substantial alteration to the article will be made without consulting the author.