



Ref: IRDA/INT/GDL/MISP/202/08/2017

31st August, 2017

Guidelines on Motor Insurance Service Provider

Attention is drawn to Authority's order ref no. IRDA/ NL/ ORD/ CMT/ 199/ 11/ 2015 dated 13.11.2015 constituting a committee on motor dealer payouts on motor insurance business. The committee submitted its report to the Authority dated 31.5.2016. Based on the examination of the report of the committee and the interaction held with insurers and other stakeholders the Authority frames the following guidelines on Motor Insurance Service Provider.

- 1. Short title and commencement:** (1) These guidelines are issued under Section 34 of the Insurance Act, 1938 and Section 14 of the IRDA Act, 1999 and are known as Guidelines on Motor Insurance Service provider.
(2) They shall come into force on 1st November, 2017.
- 2. Objective:** The objective of these guidelines is to recognise the role of the automotive dealer in distributing and servicing motor insurance policies so as to have regulatory oversight over their activities connected to insurance.
- 3. Definitions ---** In these guidelines, unless the context otherwise requires:
 - (a) "Act" means the Insurance Act, 1938;
 - (b) "Authority" means the Insurance Regulatory and Development Authority of India established under sub-section (1) of Section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);
 - (c) "Automobile Dealer" means a person who is an authorised dealer or a sub-dealer of an automobile manufacturer for selling new or used automotive vehicles.
 - (d) "Automobile Manufacturer" means a person who is the original equipment manufacturer (OEM) of the automobile.
 - (e) "Distribution fees" means the amounts paid to the MISP directly by the insurer or by the insurance intermediary as the case may be.

(f) "Motor Insurance Service Provider (MISP)" means an automobile dealer appointed by the insurer or the insurance intermediary to distribute and/ or service motor insurance policies of automotive vehicles sold through it.

(g) "Servicing of insurance business" means insurance activities arising post sale of motor insurance policies and includes:

- i) policy service delivery such as generation of motor insurance policy, receiving instructions from customers with respect to amendment, endorsement, modification, renewal, cancellation, and extension of motor insurance policies.
- ii) claim service delivery such as guiding and assisting the policyholder on insurance claims documentation, claims servicing excluding activities such as claim assessment, claim survey or loss adjustment and settlement.
- iii) any other service that may be specifically permitted by the Authority

(h) Words and expressions used and not defined in these guidelines but defined in the Insurance Act, 1938 (4 of 1938) or Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), shall have the meanings respectively assigned to them in those Acts, Rules, Regulations, Guidelines issued under those Acts as the case may be.

CHAPTER II

APPOINTMENT OF MOTOR INSURANCE SERVICE PROVIDER (MISP)

4. Eligibility conditions for appointment of MISP

- a) **Legal structure:** Any automobile dealer as defined in guidelines 3(c) above and one who does not attract any of the disqualifications as laid down in Section 42 of the Insurance Act, 1938 shall be eligible to become a MISP.
- b) **Main Objects:** The MISP shall have in its objects or in its deed or any other similar document, distribution and servicing of motor insurance policies including add-ons.

5. Appointment of MISP

- a) **Sponsoring entity (ies):** The MISP shall be sponsored by either insurer(s) or an insurance intermediary.
- b) On receipt of request from the MISP, the sponsoring entity shall verify the eligibility conditions given in guideline 4 above.
- c) On being satisfied, the sponsoring entity(ies) shall appoint MISP and issue the appointment letter in the format given in Annexure "1".
- d) The appointment letter shall be based on the PAN number issued to the automobile dealer.
- e) The MISP shall maintain records for a period of at least 7 years from the date of issuance of insurance policy or from date of termination of appointment of MISP whichever is later.
- f) If an insurance intermediary appoints the MISP, then it shall work for the number of insurers as allowed under the respective regulations governing the intermediary.
- g) A MISP may work for one or more insurers either directly or through the insurance intermediaries, if it so desires.

6. Responsibility of sponsoring entity and MISP

- (a) The sponsoring entity(ies) shall be responsible for all acts of omission and commission of the MISP.
- (b) The MISP shall also be responsible for its acts of omission and commission as well as of its employees.
- (c) The MISP shall also comply with the provisions of the Insurance Act, 1938, the IRDA Act, 1999, the Regulations made there under, guidelines and circulars issued by the Authority from time to time.

7. Training and examination

- (a) The MISP shall nominate a person who shall be responsible for its compliances with the guidelines. Such a person shall be called its Designated Person.
- (b) The Designated Person and all persons distributing motor insurance policies shall be at least 12th pass and shall undergo training and examination of Point of Sales Person to the extent specified by the Authority.
- (c) They will be given unique identification number based on their Aadhaar No.

8. Renewal of permission

- (a) The appointment of a MISP shall be normally valid unless revoked in case of insurers and valid as long as the certificate of registration is valid in case of insurance intermediaries.
- (b) However the Authority may cancel the appointment at any time, if it is of the view that the activities carried out by the MISP is:
 - i. not in the interest of the policyholders
 - ii. not conducive for the orderly growth of the industry
 - iii. violating the code of conduct given in Chapter III
 - iv. not meeting the requirements as specified in these guidelines
 - v. in violation of the provisions of the Insurance Act, 1938, IRDA Act, 1999, Insurance Rules, Regulations Guidelines, circulars, orders, notices etc issued by the Authority.

Provided that before canceling the appointment, the MISP shall be given an opportunity of being heard.

9. Review of operations of the MISP

- (a) A periodic review of the controls, systems, procedures, and safeguards put in place by the MISP, shall be carried out, at least once a year, by the sponsoring entity(ies).
- (b) The scope of such review of the MISP shall also check compliance to the Act, Rules, Regulations, circulars, guidelines, etc issued by the Authority in addition to these guidelines.
- (c) The review shall be placed before the Board of the sponsoring entity or its sub-committee for their observations.
- (d) The Authority has the right to undertake by itself or through an external agency an independent inspection into the affairs of the MISP at any time if it so desires.

CHAPTER III

Code of Conduct of MISP

10. Every MISP shall:-

- (a) offer a choice of motor insurance policies of different insurer(s) to the prospect;
- (b) inform the prospect of the premium rates of different insurers;
- (c) issue the motor insurance policy on obtaining the express consent of the prospect;
- (d) make available to the policyholder a copy of the insurance policy in electronic form;
- (e) have a separate dedicated Bank Account linked to the MISP PAN number in which all payments are received from insurer(s) or insurance intermediary;
- (f) ensure issuance of receipt of the insurer on receiving insurance premium;
- (g) share the data submitted by the prospect/ policyholder policyholders containing his contact number, mobile number and other details relevant for insurance with the insurers;
- (h) transfer data of the policyholders and registration & other particulars of the automobile to the insurers at the end of the day;
- (i) undertake reconciliation on a weekly basis on the motor insurance policies distribution & premium collected between the MISP, the sponsoring entity & the insurer;
- (j) prominently display copy of the code of conduct on its premises;
- (k) furnish any information as required by the Authority relating to insurance business;
- (l) submit periodical returns as required by the Authority;
- (m) cooperate in any inquiry conducted by the Authority;
- (n) follow the code of conduct given in Annexure "2";
- (o) comply with any other requirement which the Authority may specify.

11. Every MISP shall not:-

- (a) receive any payment directly or indirectly for outsourcing activity behalf of either the insurer or the insurance intermediary;
- (b) force the prospect/ policyholder to necessarily buy motor insurance policy through a particular insurance intermediary or insurer;
- (c) deny the prospect his rights and options to seek motor insurance policy or renewal of motor insurance policy from any insurer or insurance intermediary;
- (d) directly or indirectly control or interfere in determination of premium of policies;
- (e) direct or indirect imposition of risk selection by insurers or curtailment of choice of the prospect/ policyholder;
- (f) interfere in product design;

- (g) interfere in the appointment of surveyors and loss assessors assessment activities;
- (h) directly or indirectly influence the claims for inflating its revenue;
- (i) solicit motor insurance business from those persons who did not buy the automobile from it;
- (j) issue a motor insurance policy or a motor insurance cover note that carries name or logo or any other symbol, except that of the insurer;
- (k) conduct its business in a manner prejudicial to the interests of the policyholders;
- (l) indulge in manipulating the insurance business;
- (m) indulge in unfair trade practices;
- (n) default in complying with, or acts in contravention of, any requirement of the Act, IRDA Act, 1999 or of any rule or any regulation or order made or any direction issued thereunder;
- (o) default in complying with any direction issued or order made, by the Authority;

12. The MISP may offer the policyholder insurance claim cashless service, repairs and any other offer or service so long as it is not an inducement or rebating or unfair business practice or which in any way restricts the choice of the policyholder to choose the insurer or insurance intermediary.
13. In offering cashless service, the MISP shall not discriminate between the policyholders who have bought motor insurance policies through it or otherwise so long as the insurer is having such an arrangement with it.

CHAPTER IV

Obligations of Insurers/ Insurance Intermediaries

14. Further:-

- (a) The premium to be charged to the prospect/ policyholder by insurers shall be based on each insurer's own risk factors, its own rating parameters and its own claim experience under Product filing procedure.
- (b) The remuneration paid by the insurers to the insurance intermediary or MISP shall be subject to audit on monthly basis for compliance of these guidelines. The report of the independent auditor shall be placed to the audit committee of the insurers.
- (c) The appointment of surveyors and loss assessors for claims assessment shall be as per extant norms.
- (d) The insurer shall directly intimate to the policyholder the initial estimate of the loss and the final amount for which the claim was settled, preferably through electronic modes of communication.
- (e) The insurer / insurance intermediary shall put in place the system for day to day monitoring of the MISP and keep ready the MIS reports for inspection by the Authority.
- (f) The insurer and its employees and insurance intermediary and its employees shall be governed by the code of conduct as specified in Annexure "2".

CHAPTER V

Motor Insurance Service Provider (MISP)

15. Operational issues: The MISP shall ensure that the following minimum conditions are met at all times:

1. **Agreement:** The distribution of motor insurance policies through MISP shall be on the basis of an agreement entered into between the insurer or insurance intermediary and the Motor Insurance Service Provider, as the case may be.
2. **Disclosures –**
 - a. The MISP shall ensure that only those features of the motor insurance policies which are approved by the Authority under Product filing procedure are shared with the policyholder.
 - b. Any information which is detrimental to the interests of the policyholder or is misleading and is not approved by the Authority shall not be used by the MISP.
3. **Products –** The MISP shall distribute and/ or service motor insurance policies including add-ons only.
4. **Pricing –** The pricing of every motor insurance policy shall be decided by the insurer and it shall be the responsibility of the insurer to ensure that motor insurance policy pricing is in compliance with that approved by the Authority.
5. **Distribution Fees:**
 - a. In case the MISP is sponsored directly by the insurer(s) then it shall receive distribution fees directly.
 - b. In case the MISP is sponsored by the insurance intermediary then it shall receive distribution fees through insurance intermediary only.
 - c. The maximum distribution fees payable to MISP shall be as follows:

	Max. Distribution Fees payable to MISP	Max. Remuneration & Reward payable to insurance intermediary by insurer*
2 wheeler automotive vehicle	22.5% of the OD portion of the automotive vehicle	22.5% of the OD portion of the automotive vehicle
Other than 2 wheeler automotive vehicle	19.5% of the OD portion of the automotive vehicle	19.5% of the OD portion of the automotive vehicle

*- the insurer shall not pay both the remuneration & reward and distribution fees on the same motor insurance policy

- d. The MISP or any of its associate company, shall not receive directly or indirectly from the insurer and the insurer shall not pay directly or indirectly to the MISP or any of its associate company any fees, charges, infrastructure expenses, advertising expenses, documentation charges, legal fees, advisory fees, or any other payment by whatever name called except as specified in these guidelines.
- 6. **Remittance of premium:** The MISP shall make arrangements such that the insurance premium is paid by the prospect/ policyholder preferably by electronic means to the insurer subject to compliance of Section 64VB of the Insurance Act, 1938.
- 7. **Compliance to KYC/ AML norms** – The MISP shall be responsible for compliance of the directions issued by the Authority or any other statutory Authority for compliance of KYC/ AML matters.
- 8. **Creation of e-Insurance Account** –The MISP shall facilitate the creation of e-insurance account of the prospect.
- 9. **Issuance of e-Insurance policies** –The MISP shall facilitate issuance of e-insurance policies in accordance with the IRDAI's (Issuance of e-insurance Policies) Regulations, 2016
- 10. **Grievances –**
 - a. The sponsoring entity(ies) and MISP shall have in place a mechanism to address policyholders' grievances.
 - b. The grievances of policyholders shall be attended to in the time frame specified by IRDA (Protection of Policyholders Interest) Regulations, 2017.
 - c. The grievances registered shall be managed through the Integrated Grievance Management System put in place by the Authority.
- 11. **Compliance** – The CEO/ Principal Officer, the Compliance Officer and CFO of the insurer shall certify that they have neither paid to the insurance intermediary and the MISP remuneration and rewards nor paid them or their associates either directly or indirectly any amounts in excess of limits specified under these guidelines.
- 12. **Reporting requirements** –The insurer, insurance intermediary and the MISP shall submit to the Authority the reports as specified by it.
- 13. **MISP Database:** Every insurer and insurance intermediary shall upload on the IIB portal, at the end of the day the number of Motor Insurance Service Provider enrolled by them and the details of the persons including designated person engaged by Motor Insurance Service Provider for distributing motor insurance policies.
- 14. **Other issues** - The MISP shall immediately report to the Authority any regulatory or supervisory action taken by any Government or other Regulatory Authorities with full details and the penalty, any administrative action, if any imposed and the remedial steps taken by it to prevent its recurrence with regard to the MISP.

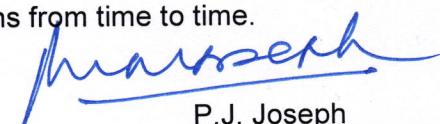
15. Penalties

- a. Any insurer or insurance intermediary who acts as the sponsoring entity of MISP shall be liable for penalty as per the provisions of Insurance Act and Regulations for the acts of omission and commission of the MISP in violation of these guidelines.
- b. In case there are more than one sponsoring insurers of a MISP, then all such insurers shall be jointly and severally liable for the actions of the MISP and open for penalties given below.
- c. A MISP shall be liable for penalty for the acts of omission and commission in violation of these guidelines.
- d. Any violation of these guidelines or the directions issued by the Authority in this regard may entail one or more of the following actions on the insurer, insurance intermediary and MISP jointly and severally.
 - i. Restriction on performance incentive to Managing Director (MD) / Chief Executive Director (CEO) / Whole-Time Directors (WTD)and Key Management Persons (KMPs);
 - ii. Removal of Managerial Personnel and / or appointment of Administrator;
 - iii. Direction to not underwrite new business in case of violation of these Guidelines.
 - iv. Graded Penal action under section 102 of the Act;
 - v. Any other action as specified in the Act.
- e. Notwithstanding such directions, the insurer shall continue to service the existing policyholders in such segments.

16. Existing arrangements: Automotive dealers holding any insurance intermediary license/certificate of registration shall not be allowed to distribute and service motor insurance policies. They shall surrender existing license/ certificate of registration and necessarily become a Motor Insurance Service Provider in order to distribute and service motor insurance policies.

17. Further powers of the Authority

- a. the Authority shall have the right to call, inspect or investigate any document, record, or communication from the MISP.
- b. Where the Authority is of the opinion that the operations of the MISP are not in the interests of the Indian market or the insurance policyholders, the Authority reserves the right to take appropriate steps including suspension or cancellation of appointment.
- c. Power of the Authority to issue clarifications: In order to remove any difficulties in respect of the application or interpretation of any of the provisions of these Guidelines, the Chairperson of the Authority may issue appropriate clarifications from time to time.



P.J. Joseph

Member (Non-Life)

Annexure "1"

**Format of Permission Letter
(see Guideline 5)**

On the Insurer/ Insurance Intermediary letterhead

Date:

M/s

Address

This is in reference to the application made by you to act as Motor Insurance Service Provider (MISP)

This is to confirm that you have fulfilled the criteria as laid down under the IRDAI Guidelines on Motor Insurance Service Provider. Your identification particular is as under:

PAN No:

This letter authorizes you to act as MISP for (name of the insurer/ insurance intermediary) to distribute and service motor insurance policies (including add-ons) only.

Yours truly

Authorised Signatory

Code of conduct for sponsoring entity, its employees and MISP

(see Guideline 10(n) & 14(f))

1. Every sponsoring entity, its employees and MISP shall follow recognised standards of professional conduct and discharge their functions in the interest of the policyholders.
2. **Conduct in matters relating to clients relationship**— Every sponsoring entity, its employees and MISP shall:
 - (a) conduct its dealings with clients with utmost good faith and integrity at all times;
 - (b) act with care and diligence;
 - (c) ensure that the client understands their relationship with the insurer;
 - (d) treat all information supplied by the prospective clients as completely confidential to themselves and to the insurer to which the business is being offered;
 - (e) take appropriate steps to maintain the security of confidential documents in their possession;
 - (f) avoid conflict of interest.
 - (g) obtain necessary documents required under KYC norms.
 - (h) assist the client in opening e-insurance account.
3. **Conduct in matters relating to Sales practices**— Every sponsoring entity, its employees and MISP shall:
 - (a) identify itself and explain the products that are on offer;
 - (b) ensure that the client understands the type of service it can offer;
 - (c) ensure that the policy proposed is suitable to the needs of the prospective client;
 - (d) explain why a policy or policies are proposed;
 - (e) state the period of cover for which the quotation remains valid if the proposed cover is not effected immediately;
 - (f) explain when and how the premium is payable and how such premium is to be collected;
 - (g) explain the procedures to follow in the event of a loss.
 - (h) not indulge in any sort of money laundering activities.
 - (i) ensure that it does not indulge in misleading calls or spurious calls.
4. **Conduct in relation to furnishing of information** — Every sponsoring entity, its employees and MISP shall:
 - (a) ensure that the consequences of non-disclosure and inaccuracies are pointed out to the prospective client;
 - (b) avoid influencing the prospective client and make it clear that all the answers or statements given are the latter's own responsibility. Ask the client to carefully check details of information given in the documents and request the client to make true, fair and complete disclosure where it believes that the client has not done so and in case further disclosure is not forthcoming it should consider declining to act further;
 - (c) explain to the client the importance of disclosing all subsequent changes that might affect the insurance throughout the duration of the policy; and
 - (d) disclose on behalf of its client all material facts within its knowledge and give a fair presentation of the risk.
5. **Conduct in relation to explanation of insurance contract** — Every sponsoring entity, its employees and MISP shall:
 - (a) explain all the essential provisions of the cover afforded by the policy recommended by him so that, as far as possible, the prospective client understands what is being purchased;
 - (b) draw attention to any warranty imposed under the policy, major or unusual restrictions, exclusions under the policy and explain how the contract may be cancelled;

- (c) provide the client with prompt written confirmation that insurance has been effected. If the final policy wording is not included with this confirmation, the same shall be forwarded as soon as possible;
 - (d) notify changes to the terms and conditions of any insurance contract and give reasonable notice before any changes take effect;
6. **Conduct in relation to renewal of policies** — Every sponsoring entity, its employees and MISP shall:
- (a) ensure that its client is aware of the expiry date of the insurance even if it chooses not to offer further cover to the client;
 - (b) ensure that renewal notices contain a warning about the duty of disclosure including the necessity to advise changes affecting the policy, which have occurred since the policy inception or the last renewal date;
 - (c) ensure that renewal notices contain a requirement for keeping a record (including copies of letters) of all information supplied to the insurer for the purpose of renewal of the contract;
 - (d) ensure that the client receives the insurer's renewal invitation well in time before the expiry date.
7. **Conduct in relation to claim by client**— Every sponsoring entity, its employees and MISP shall
- (a) explain to its clients their obligation to notify claims promptly and to disclose all material facts and advise subsequent developments as soon as possible;
 - (b) request the client to make true, fair, and complete disclosure where it believes that the client has not done so. If further disclosure is not forthcoming it shall consider declining to act further for the client;
 - (c) give prompt advice to the client of any requirements concerning the claim;
 - (d) forward any information received from the client regarding a claim or an incident that may give rise to a claim without delay, and in any event within three working days;
 - (e) advise the client without delay of the insurer's decision or otherwise of a claim; and give all reasonable assistance to the client in pursuing his claim.
8. **Conduct in relation to receipt of complaints** — Every sponsoring entity, its employees and MISP shall:-
- (a) ensure that letters of instruction, policies and renewal documents contain details of complaints handling procedures;
 - (b) accept complaints either by phone or in writing;
 - (c) acknowledge a complaint within fourteen days from the receipt of correspondence, advise the member of staff who will be dealing with the complaint and the timetable for dealing with it;
 - (d) ensure that response letters are sent and inform the complainant of what he may do if he is unhappy with the response;
 - (e) ensure that complaints are dealt with at a suitably senior level;
 - (f) have in place a system for recording and monitoring complaints.
9. **Conduct in relation to documentation** — Every sponsoring entity, its employees and MISP shall:—
- (a) ensure that any documents issued comply with all statutory or regulatory requirements from time to time in force;
 - (b) send policy documentation without avoidable delay,
 - (c) make available, with policy documentation, advice that the documentation shall be read carefully and retained by the client;
 - (d) not withhold documentation from its clients without their consent, unless adequate and justifiable reasons are disclosed in writing and without delay to the client. Where documentation is withheld, the client must still receive full details of the insurance contract;
 - (e) acknowledge receipt of all monies received in connection with an insurance policy;
 - (f) ensure that the reply is sent promptly or use its best endeavours to obtain a prompt reply to all correspondence;
 - (g) ensure that all written terms and conditions are fair in substance and set out, clearly and in plain language, client's rights and responsibilities; and
 - (h) make available to any new registered entity instructed by the client all documentation to which the client is entitled.

- (i) Assist the client in obtaining / receiving electronic motor insurance policies.
- 10. Conduct in matters relating to advertising** — Every sponsoring entity and MISP shall conform to the relevant provisions of the Insurance Regulatory and Development Authority (Insurance Advertisements and Disclosure) Regulations, 2000, and :—
- (a) ensure that statements made are not misleading or extravagant;
 - (b) where appropriate, distinguish between contractual benefits which the insurance policy is bound to provide and non-contractual benefits which may be provided;
 - (c) ensure that advertisements contain nothing which is in breach of the law nor omit anything which the law requires;
 - (d) ensure that advertisement does not encourage or condone defiance or breach of the law;
 - (e) ensure that advertisements contain nothing which is likely, in the light of generally prevailing standards of decency and propriety, to cause grave or widespread offence or to cause disharmony;
 - (f) ensure that advertisements are not so framed as to abuse the trust of clients or exploit their lack of experience or knowledge;
 - (g) ensure that all descriptions, claims and comparisons, which relate to matters of objectively ascertainable fact shall be capable of substantiation.
- 11. Conduct in matters relating receipt of distribution fees** — Every sponsoring entity, its employees and MISP shall if requested by a client, disclose the amount of distribution fee and the basis of the distribution fee it receives as a result of effecting insurance for that client.
- 12. Conduct in relation to matters relating to training** — Every sponsoring entity and MISP shall:
- (a) ensure that its staff are aware of and adhere to the standards expected of them by this code;
 - (b) ensure that staff are competent, suitable and have been given adequate training;
 - (c) ensure that there is a system in place to monitor the quality of advice given by its staff;
 - (d) ensure that members of staff are aware of legal requirements including the law of agency affecting their activities; and only handle classes of business in which they are competent;
 - (e) draw the attention of the client to Section 41 of the Act, which prohibits rebating and sharing of commission.
- 13. Information and Education**
- a) Every sponsoring entity and MISP shall support industry education initiatives aimed at explaining insurance to consumers and the community.
 - b) Every sponsoring entity, its employees and MISP shall make readily available to client:
 - (i) Up-to-date information on motor insurance;
 - (ii) Information to assist insured to determine the level of insurance cover they may require; and
 - (iii) Information about motor insurance products, services and this Code.
- 14. Every sponsoring entity and MISP shall display in every office where it is carrying on motor insurance business and to which the public have access a notice to the effect that a copy of the code of conduct is available upon request and that if a member of the public wishes to make a complaint or requires the assistance of the Authority in resolving a dispute, he may write to the Authority.**