

IUA Guidance: SMB and related arrangements

- The broker owes a fiduciary duty to the end customer to be transparent in respect of all commissions, including Subscription Market Brokerage (SMB).
- The broker must always disclose details of commissions and related remuneration to non-commercial clients, and to commercial clients upon request.
- Insurers should understand the commission arrangements in place and whether they have been disclosed to the client.

Subscription Market Brokerage (SMB) is a form of remuneration charged by brokers for services relating to the management of subscription market business. The rationale for the charge relates to increased broker costs, such as those arising from presentations to, and negotiations with, multiple entities and additional administrative, regulatory, accounting and support functions.

In the London insurance market, brokers act as agents for the insured and must uphold fiduciary duties, including acting in good faith and avoiding conflicts of interest. If a broker receives commission from underwriters for placing insurance:

- 1) for non-commercial customers, prior to concluding a contract of insurance (and on amendment or at renewal), the broker is required to provide the insured with information on the nature of the remuneration received (as per [ICOB 4.3](#)); and
- 2) for commercial customers, the broker is required to disclose any commission which it receives upon request from the customer (as per [ICOB 4.4.1](#)).

Failing to do so can result in the broker breaching their fiduciary duty. If underwriters knowingly benefit from or ignore a broker's failure to disclose such commissions, they too may be held liable as accessories to the breach.

To reduce the risk of liability, underwriters could consider including contractual terms with brokers. These terms could require full disclosure of any commissions to the insured, including the amount, purpose and nature of services provided.

In relation to SMB and other forms of remuneration and / or payments from the insurer to the broker, insurers should consider whether:

- 1) remuneration places the broker in a potential conflict with their primary role as agent of the insured.
- 2) the service paid for is providing value to insurers, that value is demonstrable, auditable and the sum paid is in line with that value.
- 3) remuneration is consistent with maintaining the fair value assessment of the product.
- 4) there are implications for the following market, for example, if the lead is receiving a benefit that the following market is not.
- 5) remuneration could be considered outsourcing and the implications this may have in terms of applicable regulation and taxation (i.e. VAT may be applicable if there is provision of a service, depending on the nature of the service and the jurisdiction).

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