

BY EMAIL ONLY

Members' Undertaking No. 62
1 April 2015

To: All Ordinary and Associate Members

**MU 62/15 - LIA CODE OF CONDUCT FOR TIED AGENTS OF LIFE INSURERS
ON THE SINGAPORE PERSONAL DATA PROTECTION ACT (NO. 26 OF 2012)**

ACTION:

- 1. FOR THE COMPLIANCE OF ORDINARY MEMBERS WITH TIED AGENTS WITH IMMEDIATE EFFECT**
- 2. FOR ASSOCIATE MEMBERS' INFORMATION**

This Code of Conduct (Code) is intended to clarify the duties and responsibilities that a self-employed agent who is a representative¹ ("tied agent") of a direct life insurer² shall observe in respect of the Personal Data Protection Act 2012 (PDPA).

This Code is applicable whenever a tied agent is conducting activities on behalf of the life insurer and with authority drawn from the agency contract or applicable laws.

This Code sets out the minimum standards that member companies of LIA should require of their tied agents.

This Code should be read in conjunction with MU 61/15.

LIA SECRETARIAT

¹ "Representative" has the same meaning as in section 2(1) of the Financial Advisers Act 2001.

² "Direct life insurer" means an insurer registered under the Insurance Act to carry on direct life insurance business.

LIA CODE OF CONDUCT FOR TIED AGENTS OF LIFE INSURERS ON THE SINGAPORE PERSONAL DATA PROTECTION ACT 2012 (NO. 26 OF 2012)

The Personal Data Protection Act 2012

It governs the collection, use and disclosure of personal data by organisations in a way that recognises both the needs of individuals and organisations.

The PDPA contains 2 main sets of provisions, covering data protection and the Do Not Call registry, which organisations are required to comply with.

The PDPA applies to personal data stored in electronic and non-electronic forms.

Scope and Objective of this Code

1. This Code of Conduct (Code) is intended to clarify the duties and responsibilities that a self-employed agent who is a representative³ ("tied agent") of a direct life insurer⁴ shall observe in respect of the Personal Data Protection Act 2012 (PDPA).
2. In applying this Code, it should be borne in mind that Section 11(1) of the PDPA provides that "In meeting its responsibilities under this Act, an organisation shall consider what a reasonable person would consider appropriate in the circumstances." Organisations should consider what is reasonably appropriate when considering how they should meet their responsibilities under the PDPA.
3. Tied agents have to comply with all PDPA requirements and the life insurer's internal policies and practices in relation to any collection, use or disclosure of personal data.
4. This Code is applicable whenever a tied agent is conducting activities on behalf of the life insurer and with authority drawn from the agency contract or applicable laws. This Code describes the ways in which life insurers support their tied agents in fulfilling their obligations. However, tied agents should note that they should nonetheless act in compliance with the provisions of the PDPA and should not act in a manner that may result in a breach of the provisions by the life insurer.
5. The tied agent shall ensure that all other persons with whom the tied agent has any business dealings with (e.g. service providers appointed by the tied agent, agency secretary, administrative assistant) fulfil the requirements of this Code when collecting, using or disclosing personal data.

³ "Representative" has the same meaning as in section 2(1) of the Financial Advisers Act 2001.

⁴ "Direct life insurer" means an insurer registered under the Insurance Act to carry on direct life insurance business.

6. This Code sets out the minimum standards for member companies of LIA. It does not modify the legal effect of the PDPA and should be read in conjunction with the PDPA, its regulations and any guidelines issued by the PDPC.
7. This Code incorporates comments and suggestions of the Personal Data Protection Commission with regard to the obligations under the PDPA. This Code is not legal advice or legally binding on the PDPC or any other party. It does not modify or supplement in any way the legal effect and interpretation of any laws cited including, but not limited to, the PDPA and any subsidiary legislation (such as rules and regulations) issued under the PDPA. Accordingly, this Code shall not be construed to limit or restrict the PDPC's interpretation, administration and enforcement of the PDPA. The onus remains with each organisation to assess how the PDPA applies to its circumstances and to ensure that it is in compliance with the PDPA and any other prevailing applicable laws.
8. This code makes reference to the Advisory Guidelines on Key Concepts in the PDPA issued by the PDPC ("PDPC's Key Concepts Guidelines").⁵ Unless otherwise stated, terms shall have the same meaning as defined in the PDPA. This Code should be read together with guidelines issued by the PDPC from time to time and where they are relevant to life insurance.

Definition of the term "Individual"

9. In this Code, an individual includes but is not limited to a policyholder, life assured, beneficiary, payer, and claimant.

⁵The Advisory Guidelines can be downloaded from the PDPC's website at www.pdpc.gov.sg.

Duties and responsibilities of the tied agent in respect of the PDPA obligations and any applicable requirements of the life insurer

The Consent, Purpose Limitation and Notification Obligation

1 – Consent Obligation in PDPA

An organisation must obtain the consent of the individual before collecting, using or disclosing his personal data for a purpose. This requirement to obtain consent does not apply where collection, use or disclosure of an individual's personal data without consent is required or authorised under the PDPA or any other written law.

An organisation may not, as a condition of providing a product or service, require the individual to consent to the collection, use or disclosure of his personal data beyond what is reasonably required to provide that product or service.

Organisations must allow individuals to withdraw any consent given under the PDPA in respect of the collection, use or disclosure of their personal data for any purpose by an organisation at any time. The individual must give reasonable notice of the withdrawal to the organisation. On receipt of the notice, the organisation must inform the individual of the consequences of withdrawing consent, and must cease (and cause its data intermediaries and agents to cease) collecting, using or disclosing the personal data, as the case may be.

2 – Purpose Limitation Obligation in PDPA

An organisation may collect, use or disclose personal data about an individual only for purposes that a reasonable person would consider appropriate in the circumstances and, if applicable, have been notified to the individual concerned.

3 – Notification Obligation in PDPA

An organisation must notify the individual of the purpose(s) for which it intends to collect, use or disclose the individual's personal data on or before such collection, use or disclosure of the personal data.

10. Where the tied agent collects, uses or discloses personal data on behalf of the life insurer for the purposes of the life insurer (e.g. to conduct the business of the life insurer), he is required to adhere to all the following requirements in this section. Generally, the tied agent should ensure compliance with all the internal data protection policies and procedures of the life insurer he represents.

11. The collection of personal data can be through any means, and recorded on hard or soft copy. This includes but is not limited to collection of personal data through face-to-face survey and through the use of online forms.

12. The tied agent shall:

- a) only collect, use or disclose any personal data of an individual for the following purposes:
 - i. soliciting business for the life insurer; or
 - ii. servicing of any policies of the life insurer for which the tied agent is authorised to service; or
 - iii. performing any activities authorised by the life insurer;
- b) only collect, use or disclose personal data when valid consent has been obtained, unless otherwise required or authorised under the PDPA or any other written law. The PDPA permits the collection, use and disclosure of personal data without consent in the circumstances provided in the Second Schedule (Collection of personal data without consent), Third Schedule (Use of personal data without consent) and Fourth Schedule (Disclosure of personal data without consent) to the PDPA respectively;
- c) inform the appointed person of the life insurer of any notice received from an individual to withdraw his consent for the collection, use or disclosure of his personal data as soon as reasonably possible; and
- d) upon receipt of such notice of withdrawal the tied agent shall also cease to collect, use or disclose the personal data, as the case may be.⁶

13. The tied agent shall inform the individual of the likely consequences of the withdrawal of consent, unless otherwise instructed by the insurer.

How the Consent, Purpose Limitation and Notification Obligation applies to different stages of the personal data life cycle

Stage A: Leads Generation or Prospecting

14. Stage A describes the phase where the tied agent is collecting, using or disclosing personal data for the purposes of generating leads, prospecting, or recruitment of agents.

Collection of Personal Data through Referrals

15. The tied agent may collect personal data in situations where the personal data (typically the name and contact number of an individual) is obtained from a third party source (e.g. obtaining personal data from a referrer who is a friend of the individual being referred).

16. The tied agent collecting personal data from a third party source is required to notify the source of the purposes for which the tied agent will be collecting, using and disclosing the personal data.

⁶Neither the tied agent nor the life insurer needs to delete or otherwise cease to retain the personal data if it is still needed for any legal or business purposes. The withdrawal of consent also does not affect any legal consequences that may arise from such withdrawal (e.g. the termination of the insurance policy, if applicable).

17. The tied agent should exercise the appropriate due diligence to check and ensure that the third party source can validly give consent for the collection, use and disclosure of personal data on behalf of the individual or that the source had obtained consent for disclosure of the personal data. Due diligence includes but is not limited to checking with the third party referrer that the individual being referred has agreed to let the tied agent contact him.
18. If the tied agent intends to send a telemarketing message to a Singapore telephone number of the individual being referred, the tied agent must check the DNC Registry first, unless he has obtained clear and unambiguous consent in evidential form from the individual.⁷

Example:

Mark, a tied agent, asks Sarah his client: "Can you give me a referral whom you think will be alright for me to call? Can I mention your name?"

Jane provides her personal data to Sarah for disclosure to Sarah's life insurance agent to contact her about life insurance matters. Sarah decides to provide the personal data of her friend Jane to Mark. Before recording Jane's personal data, Mark asks Sarah a few questions to determine if Jane has agreed to the disclosure of her personal data for such purposes.

After obtaining verbal confirmation from Sarah in the affirmative to those questions, Mark proceeded to collect Jane's personal data. Mark is likely to have exercised appropriate due diligence in this situation.

As a best practice, when contacting Jane for the first time, Mark should inform Jane that her personal data was disclosed by Sarah and verify that Jane had provided consent to do so. For example, Mark could say: "Hello Jane. My name is Mark from Insurer ABC. Your friend Sarah gave me your name for the purpose of contacting you about life insurance matters. Would it be alright to continue this conversation?"

Please note, however, that if Jane's Singapore telephone number is registered on the DNC Registry, Mark will not be able to contact Jane merely based on the above, as there is no evidence of Jane's clear and unambiguous consent to the sending of a telemarketing message to her telephone number, whether in written or other form so as to be accessible for subsequent reference.

19. If required by the life insurer he represents, the tied agent shall, in accordance with those requirements, record the confirmation of the referrer. In some cases, the life insurer may require the referrer to provide written confirmation using a prescribed form provided by the life insurer.

⁷In referral scenarios involving an individual with whom the tied agent has had no prior contact with, it is unlikely that the PDPA (Exemption from Section 43) order will apply. The Exemption Order allows an organisation to send a text or fax message (but not voice call) to an individual that the organisation has an ongoing relationship with if the purpose of the message is related to the subject of the ongoing relationship, without the need to check the DNC Registry.

Collection of Personal Data through Road Show, House-to-House or Street Prospecting, and the Like

20. The tied agent may collect personal data directly from an individual during a road show, or in other circumstances in the process of solicitation.
21. When collecting such personal data from the individual, the tied agent shall clearly notify the individual of the purpose(s) for collecting, using or disclosing his personal data.
22. If the individual consents to those purposes, the tied agent shall, subject to the requirements of the life insurer he represents, record that consent has been provided by the individual. The tied agent may request the individual to provide written confirmation using a prescribed form provided by the life insurer.

Stage B: Fact-Finding and Insurance Application

23. In this stage, the tied agent may collect personal data from an individual for the purposes of fact-finding and/or application for the insurance.

Notifying an individual of the purposes for which his personal data will be collected, used or disclosed⁸

24. On or before collecting personal data from the individual, the tied agent shall clearly notify the individual of the purposes for the collection, use or disclosure of his personal data.
25. The tied agent shall use the prescribed form(s) approved by the life insurer he represents to collect the personal data. These form(s) will state the purposes for which the personal data is collected, used or disclosed.
26. The tied agent shall ensure that the applicant reflects his consent in the relevant form(s) provided by the life insurer.

⁸The PDPA does not specify a specific manner or form in which an organisation is to inform an individual of the purposes for which it is collecting, using or disclosing the individual's personal data. An organisation should determine the best way of doing so such that the individual is provided with the required information to understand the purposes for which his personal data is collected, used or disclosed. Please see the section on the "Notification Obligation" in the "Advisory Guidelines on Key Concepts in the PDPA" issued by the PDPC for more details.

Stage C: Post-Policy Inception

27. Stage C describes the phase where the tied agent may be collecting, using or disclosing personal data in relation to an insurance policy contract that has been issued to an individual.

Collection, use or disclosure of an individual's personal data for the purpose of servicing a policy

28. If valid consent has been obtained, the tied agent can collect, use or the individual's personal data for activities within the purpose of servicing a policy which the individual has purchased ("servicing a policy").

29. As an illustrative example, the purpose of "servicing a policy" could include the following activities:

- assisting the individual to make a claim under a policy for insurance benefit
- terminating a policy
- facilitating fund switches
- informing the life insurer of a change of address or telephone number(s)
- sending reminders to the individual-that a policy payment is due
- conducting a reassessment of the individual's life insurance needs pursuant to Paragraph 34 in MAS Notice FAA-N16 and Guidelines FAA-G11 Paragraph 3.3.5

30. The tied agent shall use the prescribed form provided by the life insurer (if applicable) when conducting such activities. If required by the life insurer, the tied agent shall ensure that the individual reflects his consent to these activities in the relevant form(s).

The Access and Correction Obligation in the PDPA

4 – Access and Correction Obligation in PDPA

An organisation must, upon request:

- i. provide an individual with his or her personal data in the possession or under the control of the organisation and information about the ways in which the personal data has been or may have been used or disclosed during the past year; and
- ii. correct an error or omission in an individual's personal data that is in the possession or under the control of the organisation.

Upon receipt of a correction request, the organisation should consider whether the correction should be made. Unless the organisation is satisfied on reasonable grounds that a correction should not be made, the organisation shall correct the personal data as soon as practicable and send the corrected personal data to every other organisation to which the personal data was disclosed by the organisation within a year before the date the correction was made, unless that other organisation does not need the corrected personal data for any

legal or business purpose. If an organisation is satisfied upon reasonable grounds that a correction should not be made section 22(5) requires the organisation to annotate (that is, make a note to) the personal data in its possession or under its control indicating the correction that was requested but not made.

Request for Access to Personal Data

31. A tied agent who receives a request for access to personal data shall ensure that the individual:
 - i. fills in the prescribed form of the life insurer; or
 - ii. submits the request in writing with sufficient information for the life insurer to process the request.

32. The tied agent shall, within the stated timeline prescribed by the life insurer, submit the following to the appointed person of the life insurer:
 - i. whichever is applicable, the completed prescribed form or written request obtained from the individual;
 - ii. (if applicable) any personal data of the individual which the tied agent has; or
 - iii. (if applicable) any information which the tied agent has about the ways in which the personal data has been or may have been used or disclosed during the past year.

33. If the tied agent intends to or has provided some or all of the personal data requested directly to the individual, the tied agent should:
 - i. inform the life insurer that he intends to do so or has done so; and
 - ii. inform the individual as to whether the life insurer would be providing other relevant personal data in response to the access request.

34. Upon receipt of an access request, the life insurer may contact the individual who submitted the access request directly to obtain any necessary information required for the life insurer to process the request.

35. Where the life insurer receives an access request for personal data or information, the life insurer may contact the individual directly to find out the identities of the tied agent(s) to whom the individual has provided personal data, and any other relevant information.

36. If necessary, the life insurer may request the personal data and information directly from the relevant tied agent(s) identified by the individual. The tied agent(s) shall, within the stated timeline prescribed by the life insurer, provide the life insurer with the requested personal data or information.

37. For the avoidance of doubt, if a tied agent receives an access request for personal data that is solely in his possession or under his control (and not in the possession of or under the control of the life insurer), the tied agent shall provide the personal data to the individual directly.

38. In addition, the tied agent shall adhere to the life insurer's standards on request for access to personal data.

Request for Correction of Personal Data

39. A tied agent who receives a request for the correction of personal data shall ensure that the individual:

- i. fills in the prescribed form of the life insurer; or
- ii. submits the request in writing in with sufficient information for the life insurer to process the request.

40. Upon receipt of a request to correct personal data, the tied agent shall, within the stated timeline prescribed by the life insurer, submit the completed prescribed form or written request to the appointed person of the life insurer.

41. Unless satisfied on reasonable grounds that a correction need not be made, the tied agent shall make the requested correction to the personal data which is in the possession or under the control of the tied agent.

42. In addition, the tied agent shall adhere to the life insurer's standards on correction of personal data.

The Accuracy Obligation

5 – Accuracy Obligation in PDPA

An organisation must make a reasonable effort to ensure that personal data collected by or on behalf of the organisation is accurate and complete if the personal data is likely to be used by the organisation to make a decision that affects the individual concerned or disclosed by the organisation to another organisation.

43. The tied agent shall exercise reasonable care and due diligence to ensure that personal data collected from an individual is accurate and complete.

44. If the tied agent is made aware of changes to an individual's personal data (e.g. a tied agent finds out in the course of servicing a policy that the individual's home number has changed), he is encouraged to inform the individual of the need to contact the life insurer to correct the personal data in question and provide the individual with the prescribed form.

The Protection Obligation

6 – Protection Obligation in PDPA

An organisation must protect personal data in its possession or under its control by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks.

45. The tied agent shall comply with the Protection Obligation pertaining to personal data in his possession or control by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or other similar risks.

46. In addition, the tied agent shall adhere to the life insurer's standards on information and data security with regard to the protection of personal data.

The Retention Limitation Obligation

7 – Retention Limitation Obligation in PDPA

An organisation must cease to retain documents containing personal data, or remove the means by which the personal data can be associated with particular individuals as soon as it is reasonable to assume that:

- i. the purpose for which the personal data was collected is no longer being served by retention of the personal data; and
- ii. retention is no longer necessary for legal or business purposes.

47. The tied agent shall comply with the requirements under the Retention Limitation Obligation pertaining to personal data in his possession or control. In addition, the tied agent shall comply with any applicable retention policies instituted by the life insurer.

48. Where the tied agent has collected personal data from an individual ~~or a customer~~ directly or indirectly solely on behalf of the life insurer, he shall:

- i. file and keep records of the personal data (including the relevant forms which contains the personal data) until the purpose for which the personal data had first been collected is no longer served, or for any other period prescribed by the life insurer in accordance with the Retention Limitation obligation, whichever is later;
- ii. destroy or anonymise the personal data when the purpose for which the personal data had first been collected is no longer served, or on expiry of the period prescribed by the life insurer in accordance with the Retention Limitation obligation, whichever is later;

49. The tied agent shall destroy the relevant forms and personal data in a secure manner which renders them irretrievable or inaccessible to the tied agent. Examples could include destroying physical copies of the forms by shredding them or anonymising the personal data.⁹

50. In the event that the tied agent's agency agreement with the insurer is terminated, the agent shall hand over all data and documentation (including all personal data) still in possession of or under control of the tied agent to the life insurer in accordance with the life insurer's handover procedures.

The Transfer Limitation Obligation

8 – Transfer Limitation Obligation in PDPA

An organisation must not transfer personal data to a country or territory outside Singapore except in accordance with the requirements prescribed under the PDPA to ensure that organisations provide a standard of protection to personal data so transferred that is comparable to the protection under the PDPA.

51. Unless instructed by the life insurer and/or in accordance with the life insurer's internal policy and procedures, the tied agent shall not transfer any personal data outside Singapore.

The Openness Obligation

9 – Openness Obligation in PDPA

An organisation must implement the necessary policies and procedures in order to meet its obligations under the PDPA and shall make information about its policies and procedures publicly available.

An organisation is to designate one or more individuals ("data protection officer(s)" or "DPO(s)") to be responsible for ensuring that the organisation complies with the PDPA, and the business contact information of at least one of such individuals designated (or an authorised delegate) shall be made available to the public upon request.

An organisation is also required to:

- (a) develop and implement policies and practices that are necessary for the organisation to meet the obligations of the organisation under the PDPA;
- (b) develop a process to receive and respond to complaints that may arise with respect to the application of PDPA;
- (c) communicate to its staff information about the organisation's policies and practices referred to in (a); and

⁹ Please refer to the section on the "Retention Limitation Obligation" in the "Advisory Guidelines on Key Concepts in the PDPA" issued by the PDPC for more information.

(d) make information available on request about policies and practices in (a) and the complaint process in (b).

52. The life insurer may designate one or more of its DPOs to provide assistance and support to tied agents in relation to compliance with the PDPA.
53. The life insurer will make available to the public the business contact information of at least one of the DPOs (or authorised delegate). Tied agents should direct any queries relating to the life insurers' compliance with the PDPA, and/or the complaint process to a DPO (or authorised delegate) designated by the life insurer.
54. The life insurer would support its tied agents by setting up the relevant policies and procedures required to achieve (a) to (d) above. A tied agent conducting activities as a representative of the life insurer will need to comply with such policies and procedures, and communicate them to his agency's office staff.