THE INSURANCE COMMISSION
OF THE BAHAMAS

Practice Note
Lending Institutions Involved with Insurance Placement for Borrowers

I. STATEMENT OF OBJECTIVE

Pursuant to section 24 of the Insurance Act, Chapter 347 (the Act), only licensed insurance intermediaries are authorized to sell insurance in The Bahamas. Certain financial institutions that provide commercial and retail lending (lending institutions or lenders) have affiliated companies licensed as Agents under the Act to sell insurance in The Bahamas. The objective of this document is to outline the requirements for lenders involved in some aspects of insurance; either having their own Agency or having to arrange coverage to protect their interest when a borrower fails to arrange the required insurance.

II. INTRODUCTION

The Insurance Commission of The Bahamas (ICB) is the prudential and market conduct regulator for insurance business. The Central Bank of The Bahamas is the regulator for banks & trust companies, some of which have subsidiaries licensed for the sale of insurance products. The Insurance Commission has received complaints from licensed agents and brokers and from policyholders relative to certain lenders who have engaged in the practice of insuring property that serves as collateral for loans extended, with preferred insurers. Lenders have countered that they need to be able to protect their collateral if the borrower fails to adequately insure and provide the lending institution with evidence of adequate insurance.

In order to address these complaints in a fair and equitable manner, the ICB (with agreement of The Central Bank of The Bahamas) conducted a cross-system review of the practices of banks with respect to insurance business. The review was done with the objective of establishing practice standards in several areas. The practices put forward are based on that review and apply to all lenders who may arrange insurance coverage on behalf of borrowers.

III. RECOMMENDED PRACTICES

1. Agency Relationship

i. Lenders that are involved in arranging or promoting insurance to their borrowers must have a service agreement with an Insurance Intermediary.

ii. Financial institutions not licensed as an insurance agency should not benefit from the sale of insurance products either through commissions or rebates. Pursuant to sections 136 of the Act no commission may be paid to any person or entity that is not registered with the ICB.

iii. Lending Institutions should not solicit[1] insurance business. All communication regarding insurance should only be disseminated to the lender's customers and relevant only to the protection of the lending institution's collateral.

iv. Staff of financial institutions that are not licensed under the Act should not give insurance advice to customers. All insurance advice to consumers should be conveyed through a licensed and qualified insurance intermediary.

2. Treating customers fairly

i. Borrowers must have choice in the purchase of insurance required by lenders. The practice of tied selling is not acceptable. The Consumer should be advised in writing that they have a choice to either purchase the insurance product through the lender's intermediary or through an intermediary of their choice that is registered and has a current licence with the Commission.

ii. There should always be transparency and full disclosure to consumers when procuring insurance, including full disclosure of the charges involved**.**

iii. There should be a clear distinction between the insurance products and other products provided by a financial institution.

iv. In the case of a loan facility, if the consumer fails to purchase or renew their insurance with an intermediary of their choice and provide the lender with evidence of insurance in a timely manner, then the lender may exercise its right, in accordance with the terms of its loan agreement. The lender may seek to protect its interest including placing insurance through its own intermediary, but only in accordance with the requirements for forced-placement of insurance business as outlined in this document.

3. Forced placement of insurance by lending institutions

i. Lending institutions should not obtain forced-placed insurance unless there is a reasonable basis to believe that the borrower has failed to comply with the loan contract requirements to maintain property insurance.

ii. The lending institution involved should have internal written policies and procedures for this type of insurance placement.

iii. Notices to borrowers (policyholders) should be sent from the lending institution at least 60 days prior to the insurance renewal date reminding the borrower of the renewal date and the need to provide proof of insurance. This notice should also inform the policyholder of their freedom to choose their own licensed insurance intermediary. If the lending institution has not received proof of insurance coverage 30 days prior to the renewal date, the lending institution must send a second notice. The notice should explain the following:

[1] attempting to sell or canvass insurance business or asking or urging a person to apply for a particular kind of insurance from a particular company

a) Failure to provide proof of insurance (generally within 10 days after the renewal date, in accordance with the mortgage clause) would result in the lender arranging insurance coverage on behalf of the borrower and the premium would be charged to the borrower's account.

b) Coverage arranged by the lender could be different from what the borrower may choose to arrange.

c) The cost of insurance arranged by the lender may be higher than what the borrower could arrange for themselves.

d) The means by which the borrower can demonstrate existing coverage (should be specific so as to avoid confusion or delay e.g. receipt, cover note, letter, etc.)

iv. Subsequent to the renewal date, the policyholder should receive written correspondence from a licensed insurance intermediary explaining the insurance that has been arranged by the lending institution and outlining the policyholder's rights and obligations. The lending institution's intermediary should ensure that the consumer is given their policy documents in a timely manner.

v. In all cases, the lending institution should ensure that the sums insured are clearly communicated to the policyholder and where relevant it should be highlighted that the insured amount may be less than the replacement value or market value of the property.

vi. It is good practice to provide 30 days of grace period for borrowers to provide proof of insurance in the case of forced placements. If the consumer provides proof of insurance prior to the anniversary date (or time given by the lender's policy) then lenders should accept the borrowers insurance, terminate the force-placed insurance and refund all charges (including premiums and fees) for the force-placed insurance.

vii. All lending institutions that are involved with insurance placement should have a separate complaints process for insurance complaints:

a) Procedures for complaints should be in written form that can be provided to anyone requesting the information.

b) Proper records should be kept of all insurance related complaints including complaint handling timelines and resolution.

c) The lender should acknowledge the complaint in writing within five business days of receipt of complaint.

d) Within 30 business days of receiving the complaint and the required documents, the lender must provide the borrower with a written notification of resolution or conclusion.

4. Staff & Training

All lending financial institutions are encouraged to have some in-house training on the insurance products being offered to the consumer through their insurance intermediary.

5. Record Keeping

i. All lending institutions should maintain separate records for insurance business arranged through their insurance agent, i.e., banking, insurance and any other businesses should not be co-mingled.

ii. These separate records should be kept updated and current should they need to be inspected by the respective Regulators.