

Insurers/Takaful Operators – Repairers’ Code of Conduct

Including the Independent Dispute Resolution Framework

Townhall with representatives from insurance/takaful industry and motor repairs industry

31 July 2024

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Executive Summary

Recap

1. Bank Negara Malaysia (the Bank) has conducted several ongoing engagements since Jan 2023 with, FAWOAM, ITOs, PIAM, MTA, AIAC, Merimen and Australia's Code Administration Committee
2. In Dec 2023, the Bank issued a Public Consultation Paper on the Insurers/Takaful Operators-Repairers Code of Conduct (the Code). Specific questions were posed in the Code to obtain feedback on the proposals that were being considered.
3. In May 2024, a focus group discussion involving representatives from the insurance/takaful and motor repair industries was held to obtain feedback on enhancements to the proposals following inputs received during the public consultation process.

Purpose Today's townhall is intended to secure final inputs from industry on the revised key requirements in the Code.

Overview of key discussions under the Code:

- 1) Subject matter excluded from the Code
- 2) Key requirements for ITOs and Repairers in the Code
- 3) Participation to the Code
- 4) Role of Administrator of the Code
- 5) The Independent Dispute Resolution Framework (IDRF)

The Code is being developed to establish minimum standards on fair, timely and professional conduct for both parties, ultimately to ensure the best interests of end consumers are preserved

Key outcomes



- 1 To promote trust, professionalism and effective collaboration between Insurers/ Takaful Operators (ITOs) and Repairers



- 2 To enhance public trust and confidence in the motor claims and motor repair industry



- 3 To ensure consumers receive timely, reliable, safe and high-quality services.

Challenges that led to establishing the Code



Alleged unprofessional conduct among repairers, given that repairers are not regulated

e.g. allegations of inflated claims



Unequal bargaining power between repairers and ITOs

i.e. one-sided contract terms in favour of insurers in service level agreements (SLAs) with panel repairers, allegations of unfair termination of panel repairers, etc.



Disputes between ITOs and repairers

i.e. repairer complaints on adjusters' recommendations not being made transparent and lacks weight as ITOs significantly amend estimates - significant variance between claims estimated by repairers and claims approved by ITOs

Principles of the Code

- ❖ **Professional and fair conduct** – ITOs and Repairers to observe high standards of honesty and integrity, transact in good faith and comply with relevant laws in conducting business with each other and in providing services to customers.
- ❖ **Effective and transparent dispute resolution process** - Provide for fair, transparent and timely dispute resolution processes to address disputes between ITOs and repairers.

Key Area 1: Paragraph 1.4 lists out matters that are excluded from the Code

To preserve healthy competition in the motor claims and repairs industry, the Code does not intervene or intrude on matters pertaining to:

- a Types of vehicle parts to be used in repairs
- b Insurers'/takaful operator's panel repairer selection criteria
- c Choice of repairer
- d Requirements to allocate work among repairers
- e Any cost components of ITOs and repairers
- f Any sales or production related information
- g Any aspect of competitive bidding
- h Business plans and strategies
- i Details of engagement with suppliers, vendors, or customers
- j Limit or control of production or output, or allocation of market

Key Area 2: Key requirements in the Code (1/2)

1 ITOs' Obligations and Repairer's Obligations

Some examples include:

- 1) ITOs and Repairers **must abide** by:
 - i. any guidelines introduced or that may be introduced by relevant authorities such as Jabatan Pengangkutan Jalan (JPJ)
 - ii. methods that are consistent with standard motor vehicle warranty conditions; or
 - iii. any mandatory specifications and/or standards required by law
- 2) ITOs and repairers **should also be guided** by Malaysian Standard on Motor Vehicle Aftermarket: Smash Repair Requirements issued by Jabatan Standard Malaysia
- 3) ITO shall:
 - a) authorise Repairs with the following objectives of:
 - i. restoring the safety and structural integrity of the motor Vehicle; and
 - ii. fulfilling their obligations to the policy owner in accordance to their policy and policy documents issued by BNM
 - b) work together with Repairers to resolve Customer's complaints that relate to ITO's decision on the approval amount or scope of work in a timely and transparent manner.
 - c) ensure that their In-house Assessors comply with the minimum requirements on professionalism and conduct as provided in the PD on CSP including ensuring in-house assessors with less than 5 years of experience are closely supervised by the senior.
- 4) Repairers shall:
 - a) prepare estimates that provide an accurate and appropriate account of the scope of Repairs and
 - b) not commence any Repair without obtaining the relevant ITO's agreement and authorisation.
 - c) ensure that staff assigned to repair works are qualified and/or experience as specified in JSM's Standards
 - d) handle customer complaints promptly, fairly and effectively and have a proper processes and procedures for complaints handling accessible by customers

2 Repair Warranties

Repair warranties in line with JSM's Standards:

- 1) **Warranty for workmanship** i.e. body panel repair, structural replacement, rust and surface repair and painting– minimum period of six months or 5,000km (whichever comes first)
- 2) **Warranty on replacement parts and component:**
 - a) Reuse parts and components – not less than 30 calendar days
 - b) Repair parts and components – not less than 45 calendar days
 - c) New or remanufactured parts and components – not less than 90 calendar days or as provided by the manufacturer, distributor, supplier or importer of the parts, whichever is longer

3 Estimate, Repair and Authorisation Process

ITOs and Repairers must ensure:

- 1) the estimation process is **fair, transparent and timely e.g.** ITO shall not refuse to consider the estimate on unreasonable grounds e.g. rejecting a claim without providing valid reasons
- 2) the estimates are **comprehensive, complete and inclusive of all ascertainable damage**
- 3) ITOs must provide **access for Repairer to view the assessment and recommendations of Registered Adjusters or In-house Assessors** on motor claim estimates via the systems

4 Payment for Repairers

- 1) ITOs are required to make full payment of the claims **within 7 working days** from the date of receipt of the acceptance of offer and all relevant documents.

Key Area 2: Key requirements in the Code (2/2)



Panel Repairers of ITOs i.e. terms and conditions to include into Service Level Agreement (SLA)

ITOs shall enter into a **Service Level Agreement (SLA)** with each Repairer selected to become their Panel Repairer. The SLA shall incorporate terms and conditions such as:

- a) **the criteria and requirements** for retaining their panelship status.
 - i. The criteria may include minimum qualification and experience of relevant technicians, as well as minimum requirements relating to site area, facilities, security at workshop and insurance coverage requirements
- b) **specific, measurable and relevant KPIs** (including on quality of repair work, accuracy of repair estimate quotes and customer complaints and feedback)
- c) an obligation for the Panel Repairer to abide by the Code;
- d) a requirement for Panel Repairer to notify the ITO on any change in their business ownership structure within 14 workings days from the date of change of ownership;
- e) the period of the SLA, which shall be fair and reasonable, of not less than 3 year;
- f) **the termination clauses** including the right of both ITO and repairer to terminate the SLA by giving the other party **at least 6 months' notice** and providing explicit grounds and reasons for such termination. The SLA may also be terminated by ITOs for reasons including:
 - i. Panel repairer is convicted of a serious criminal offence, engaged in fraudulent activities or serious misconduct e.g. submission of false claims.
 - ii. breached of SLA requirements
 - iii. Failure to meet performance criteria provided in the SLA



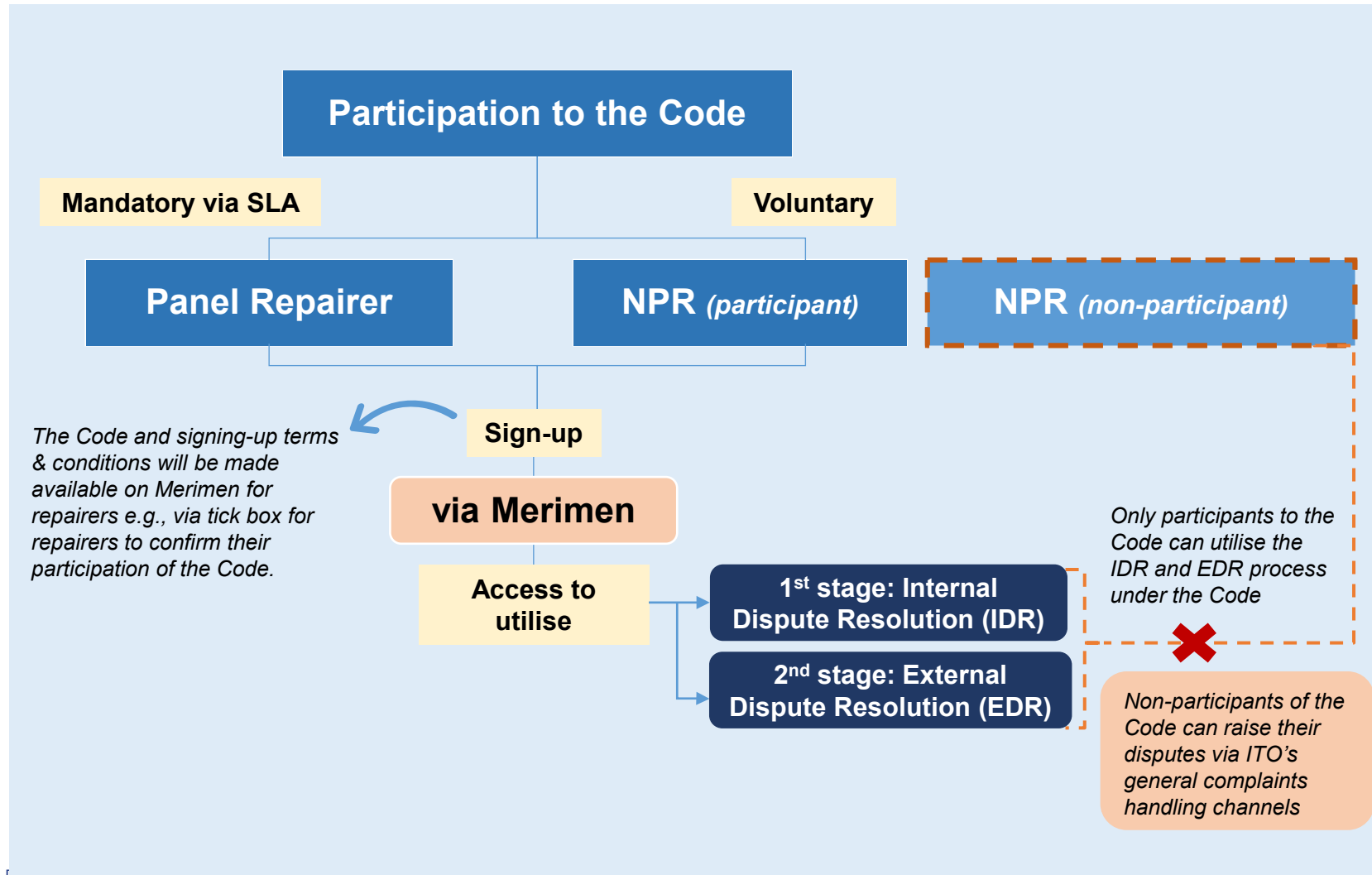
The **terms and conditions of the SLA** shall:

- a) take into consideration the Panel Repairers' feedback e.g. parts price discounts and hourly labour rate;
- b) be subject to periodical review; and
- c) not include exclusivity clauses that prevent Repairers from working with other ITOs.

Key Area 3: Participation to the Code

Compliance to the Code is:

- Mandatory for panel repairers** via Service Level Agreement with ITOs i.e. SLA include requirement for panel repairer to abide by the Code
- Voluntary for non-panel repairers (NPR)** - via agreeing to be a participant to the Code



Benefits as Code Participant

- Promote fairness, transparency and professionalism** within the insurance/takaful and motor repair industry.
- Business viability:** A healthy insurance/takaful and repair industry benefits everyone, contributing to a robust ecosystem.
 - Consumers will trust repairers who adhere to the Code, translating into increased/repeat business i.e., positive word-of-mouth.
 - Repairers are safely assured that ITOs are required to ensure transparent and fair documentation of negotiated terms and agreement.
 - ITOs will be assured on the repairers handling their policyholders' vehicles i.e., professional conduct, provide accurate quotes and use quality parts.
- Efficiency:** A dedicated dispute resolution platform catered for repairers via the IDR and EDR – timely, cost effective and independent.

Key Area 3: Merimen's proposed platform interface

MY E-COC PLATFORM - FEATURES



1. MY CoC message prompt on system's main page for repairers to click to download the document.

Code of Conduct

Dear Repairers,

Compliance with the Code will be mandatory for panel repairers

Code of Conduct Form

☐ To comply with the requirements of the Code

File to upload

Choose File No file chosen

Submit

Repairer's Main Menu

There are **8958.72** credit points in your company's Motor account [Create Topup Request](#) [\[Click here for guide\]](#)

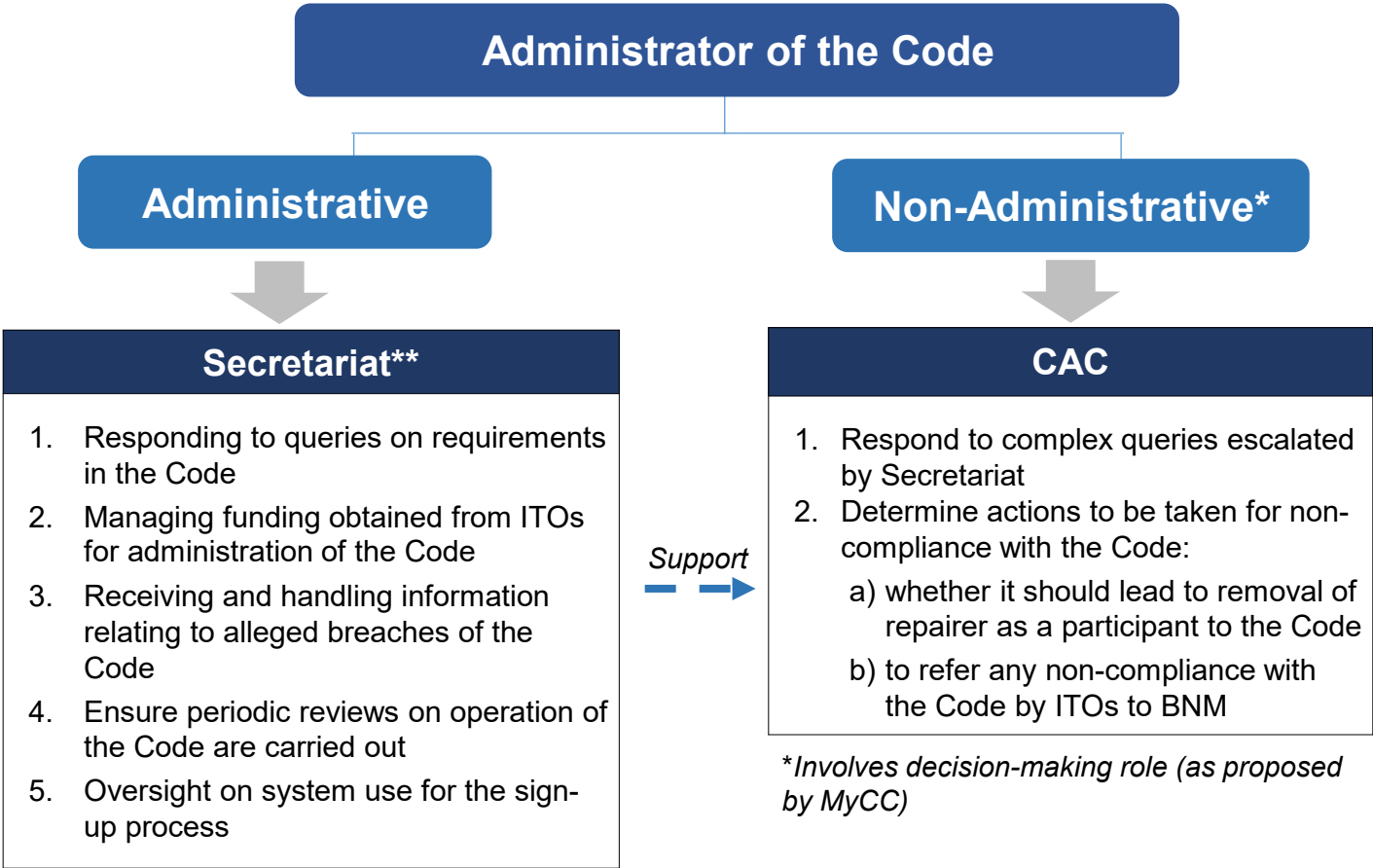
2. Once signed up to be a participant of the Code, a "COC" will be visible for the compliant repairers (participant of the Code)

CLAIM SUBFOLDER DETAILS	
Insured:	Ms. Demo Ibnu Tender , NRIC : 880808-10-8008 , Tel: 0197800003
Vehicle Reg. No.:	XXX123
Claim Type:	OD / DEMO/TENDER/MOTOR ... [MRMCaseID: MY161362]
Repairer:	RO Workshop Sdn Bhd (HQ) PROFILE 9, Jalan Jejaka Lima, Taman Maluri, 55100 Kuala Lumpur - Tel: 033843898 NON-PANEL GST Registrant Service Tax Registrant COC
Handling Insurer:	Beta Insurance Sdn Bhd (HQ) - Tel: 03-9818151 ... [Handled by David S. Coperfield - 603 1234 5678 ex1234]
Adjuster:	-Adjuster Not Assigned-
Driver/Custodian:	Ms. Demo Ibnu Tender (35 / Female) , NRIC : 880808-10-8008 , Tel: 0197800003



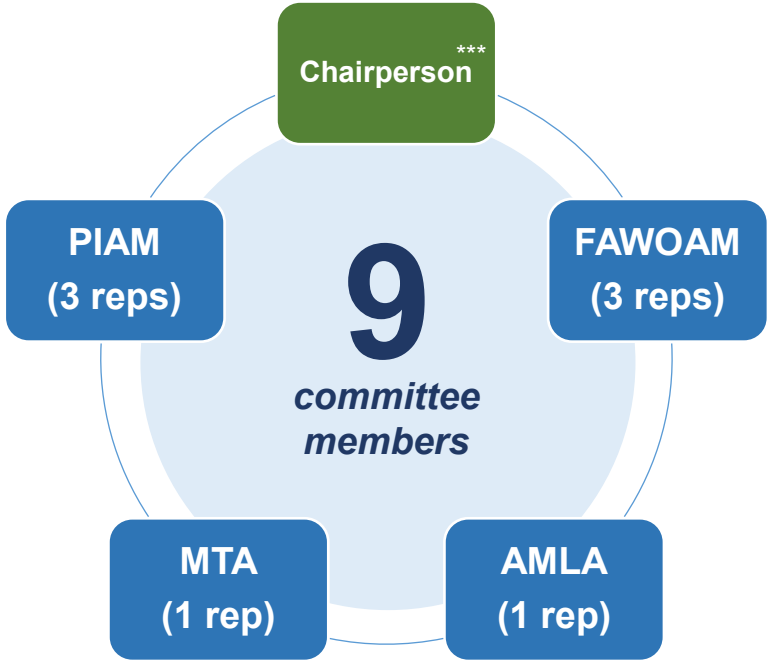
Key Area 4: Administrator of the Code

- a) The Code shall be administered by an Administrator.
- b) A Code Administrator Committee (CAC) will be established with representatives from both industries to carry out decision-making roles e.g., determining actions to be taken for non-compliance with the Code.
- c) The Chairperson of the CAC shall be independent and should have the relevant domain expertise.



****The Secretariat role to be assigned to PIAM/MTA**

Proposed composition of CAC



*** An alternate Chairperson will be appointed to step in if the Chairperson is unavailable

The Independent Dispute Resolution Framework (IDRF) under the Code aims to ensure a fair, prompt and cost-effective handling of disputes between ITOs and repairers for the benefit of consumers

Participants of the Code i.e., repairers may raise their disputes on ITO's alleged non-compliance of the Code via the IDRF as follows:

The IDRF is a 2-step process:

1st Step



Internal Dispute Resolution (IDR)*

Complaints raised by repairers in relation to alleged non-compliance of the Code

Timeline: Not more than 10 working days (WD) (standard) or 20 WD (complex)

If a repairer is dissatisfied with the IDR decision made by the ITO, the repairer may escalate the complaint to the EDR

IDR is established **within ITOs in an independent manner** as far as practicable. This includes ITOs being required to:

- Ensure staff involved in the IDR process are independent from the assessment or handling of the claims relating to the dispute raised; and
- An independent senior staff or a committee is involved in the IDR decision-making process.

2nd Step



Independent External Dispute Resolution (EDR)

The EDR will employ a fit-for-purpose arbitration process, where an appointed arbitrator (AA) will preside over the dispute and decision made by the AA will be **binding on both parties**, ITOs and repairers.

Timeline: Not more than 19 WD (standard) or 24 WD (complex)

Total timeline for the IDRF: Not more than 29 WD (1.25 months) for standard cases, or 44 WD (2 months) for complex cases

An **independent external entity** will be appointed to ensure impartiality and independence of the EDR process.

Amongst the entities considered is the Asian International Arbitration Centre (AIAC).

Failure to comply with the arbitrator's binding decision may lead to:

- actions taken against ITOs by relevant authorities;
- may lead to **removal of the participant of the Code**:
 - removal of the repairer from ITO's panelship;
 - repairers will no longer be able access IDR and EDR.

Key Area 5: An independent external entity to administer the EDR process

Proposed draft Code

- The first draft Code issued for public consultation in Dec 2023 proposed for **PIAM and MTA** to carry out the EDR Administrator role.
- However, feedback received indicated that this may result in misperceptions that the EDR is biased in favour of ITOs' interest i.e. not impartial or independent.

Proposed approach & rationale

To address the above concerns, the EDR will be administered by the following independent external entities:

Level 1 – Administering EDR process: *(system driven by Merimen)*

1. Provide a platform for
 - a) A list of panel of approved arbitrators for selection
 - b) Lodgement of EDR dispute notification
 - c) Acknowledge the EDR dispute notification
 - d) Notify parties on the date of commencement of the arbitration
 - e) Notify appointed arbitrators on appointment to a case
2. Provide an aggregated statement on the results of the independent EDR

*Supported
and
overseen
by the
Secretariat*

Level 2 – EDR case management: *(independent external entity e.g. AIAC):*

1. Managing payment of fees on the EDR
2. Carry out conflict check and Appoint an Approved Arbitrator from the panel
3. Administer and oversee arbitration process

Cost

Cost incurred to develop and maintain the IDR and EDR platform on Merimen will be borne by the ITO industry.

Payment of fees for disputes escalated to EDR shall be shared equally i.e., 50-50 by the disputing ITO and repairer respectively.

Timeline

To finalise the operationalisation of the EDR framework **by end Q1 2025**



Key Area 5: Independent Dispute Resolution Framework (IDRF) is intended to be a dedicated dispute resolution platform for repairers to raise complaints on non-compliances with the Code



Scope of IDR and EDR

Para 11.2 Scope of ITO's IDR Process

- (a) *The IDR process **applies to all disputes raised by Repairers on ITOs relating to alleged non-compliances with the Code except** matters such as:*
- i. where a lawyer or a legal firm has been appointed to act on the matter;*
 - ii. disputes time barred under the Limitation Act 1953 or Limitation Ordinance (Sabah) (Cap.72) or Limitation Ordinance (Sarawak) (Cap. 49);*
 - iii. matters filed or referred to OFS, Court and any arbitration process outside of the Code;*
 - iv. repudiated cases such as cases where the policyowner/takaful participant is making an appeal on the cost of repair and not the Repairer;*
 - v. matters set out in paragraph 1.4; and*
 - vi. complaints relating to cases under investigation by law enforcement authorities***



Rationale

This is excluded from the IDRF in view of the wider legal implications and to avoid interfering in any ongoing investigations by the relevant law enforcement authorities i.e. more appropriately decided by the relevant enforcement authorities.

Key Area 5: Scope of IDR and EDR with respect to minimum hourly rates, standard hours and preferred method of repairs

Proposed approach

- a) The Code provides broad principles for ITOs and repairers to reach an agreement on these matters in a transparent, orderly and fair manner. Hence, these areas are still freely negotiated by ITOs and repairers.
- b) Moving forward, ITOs are required to ensure matters on minimum hourly rates, standard hours and preferred method of repairs are appropriately negotiated and documented to ensure compliance to the Code.
- c) The IDRF serves as a platform for repairers to address their grievances with ITOs, if treated unfairly or inconsistently with the pre-agreed/documented terms.
- d) As such, repairers are allowed to lodge a dispute under the IDRF where:
 - i. There is **lack of documentation/transparency** of the above matters in the SLA/agreement;
 - ii. A party **did not comply with the pre-agreed rates/appropriate reference** point set out in the SLA/agreement.

For reference:-



ITOs' and Repairers Obligations

Para 5.3: Motor parts trade discounts, labour rate and labour time

- a) *The motor **parts trade discounts and labour rate per hour** should be negotiated between ITOs and Repairers and stipulated in the SLA or other agreement between ITOs and Repairers. In this regard, the **determination of the hourly labour rate shall take into consideration the types of vehicles.***
- b) *Where the **labour time for a Repair is unable to be determined using the MRC database**, ITOs and Repairers shall **agree on the appropriate reference point to determine the standard hours for repair work e.g. recommendations by the appointed registered adjuster** and this agreement shall be disclosed in the SLA or other agreement.*

Next steps

