

Cancellation of broker agreements or contracts

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Of course, "one-sided" cancellation of contracts due to fraudulent activity is a legal issue and the process will dictate the status quo.

Consequences

The cancellation of a contract gives rise to a number of issues for an intermediary, including:

- What happens to the intermediary's commission stream? Normally there are two kinds of commission: upfront commissions, which will reflect as a debt until it has vested, as well as trail fees and as-and-when commissions.
- What happens to the intermediary's clients? Recurring commissions and trail fees are usually linked to the specific client and will also be effected in the process.

- Is the intermediary still entitled to the clients' information? The intermediary is entitled to a client's information as long as the client provides the necessary consent.

If an intermediary has not supported an insurer for some time, these issues should not be much of a problem, since the intermediary would not likely have many clients whose business is placed with the insurer. The intermediary will always be entitled to the renewal commissions, regardless of the contract cancellation. Usually, all unvested commissions are "frozen" for a period of between 12 or 24 months. The commissions are then played off against lapses before being released to the broker.

Where an intermediary has supported an insurer for years and then suddenly favours another insurer, the picture may well be different. Such a scenario leaves the first insurer with a significant loss, since it carries a big production target, which might impact the broker consultant and all managers in the food chain. Clearly this will have an

adverse impact on the relationship, possibly even leading to nasty behaviour.

A contract or an agreement between two parties should be mutually beneficial. For this reason, the cancellation of contracts remains a contentious issue, because it means that one of the parties is no longer benefitting from the relationship, and that implies that the other party did not fulfill its obligations in terms of the agreement.

Both insurers and intermediaries should carefully consider their decisions to enter into a broker contract or agreement - and the cancellation thereof. ■



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