



Marine Brokers Code of Ethics & Operational Guidelines

1) PROTECTION OF THE PUBLIC

It is the duty of the broker (hereafter referred to as 'Agent' to protect the public against fraud, misrepresentation, or unethical practices in the marine brokerage profession. Agents should endeavour to eliminate any practices which could be damaging to the public or to the dignity and integrity of the marine brokerage profession and assist the NZ Marine Industry Association (referred to here after as NZMIA) Executive in guiding the practices of brokers.

In accepting employment as an agent, brokers pledge themselves to protect the interests of the client. This obligation of absolute fidelity to the client's interest is paramount, but it does not relieve the broker from obligations of dealing fairly with all parties to the transaction. Brokers, for the protection of all parties with whom they deal, should see that financial obligations are in writing and express the exact agreement of the parties. Copies of such agreements should be provided to all parties involved at the time the agreements are executed, or as soon as possible afterwards.

Brokers will conform to all practices and procedures and will endeavour to use all forms from time to time adopted by the NZMIA as applicable and acceptable to NZMIA brokers.

2) TRUST ACCOUNTS

Brokers must ensure that clients' funds held by the broker are kept in trust for that client. Commissions are to be paid to the broker as per the written terms of the agreement between the vendor and broker.

Brokers should be mindful of current money laundering and terrorism financing legislation that may apply to the broker, vendor, and client.

3) FACTUAL INFORMATION

Brokers should use their best efforts to ascertain all pertinent facts concerning every vessel for which they accept the agency so that the professional obligation to avoid error, exaggeration, misrepresentation or concealment of pertinent facts and defects may be fulfilled.

4) FAIR MARKET VALUE

It is the duty of the broker to be well informed on current market conditions in order to be in a position to advise clients as to the fair market value of vessels.

5) APPRAISALS

Brokers should not undertake to make any appraisal or render an opinion of value of any vessel where they have a present or contemplated interest unless that interest is declared to all parties to the transaction.

Brokers should not undertake to make any appraisal that is outside the field of their experience unless they obtain the assistance of an authority on such types of vessels, or unless the facts are fully disclosed to the client. In such circumstance, the authority so engaged should be identified and his contribution to the appraisal should be clearly set forth.

6) MARINAS AND SHOWING VESSELS

The broker is always to be present when a purchaser views a vessel unless arrangements are specifically made with a vendor.

The broker will always abide with respective marina and boat yard rules and health and safety requirements, including appropriate Public Liability Insurance as required.

7) MARINE SURVEYOR

Brokers must always recommend that the purchaser engage the timely employment of an independent qualified marine surveyor as a condition precedent to the completion of a brokerage transaction. The surveyor must be independent of the brokerage and be the purchaser's choice. The broker at their discretion may provide a list of respected surveyors, allowing the purchaser to make an independent selection. Best practice is to recommend several surveying companies and avoid giving preferences or making negative comments about particular companies.

The survey is to be to the total satisfaction of the buyer.

8) SEA TRIALS

Sea trials should be a condition of purchase and be to the total satisfaction of the purchaser. Before undertaking a sea trial, the broker should make sure there is adequate safety gear on board the vessel and ideally the broker should carry a safety grab bag, with the necessary safety gear.

9) MULTIPLE OFFERS

- a. If more than one offer on a specific vessel is made, before the Vendor has accepted an offer, all additional offers presented to the Broker, should be transmitted to the Vendor for his consideration.
- b. If a Brokerage has received more than one offer prior to acceptance of any offer, all offers should be presented to the Vendor. The broker shall act on the instructions of the Vendor as to which offer shall be accepted and/or negotiated.
- c. If an offer is made after the Vendor has previously accepted an offer, the Vendor should be made aware of its existence.
- d. This outline is a recommendation for a fair procedure for Brokers to follow when several offers are presented at approximately the same time. The procedure for handling any multiple offer situation should be discussed with the Vendor. Ultimately, it is a Broker's obligation to act as the Vendor desires and by whatever guidelines he decides. Whatever solution is decided by the Vendor, all those making offers should be appraised of it.

10) ADVERTISING

- a. Brokers should not submit or advertise vessels without authority, and in any offering the price quoted should not be other than that agreed upon with the owner as the offering price.
- b. Brokers in their advertising should be especially careful to describe a vessel fairly and honestly, and declare any defects known to the broker.

11) LEGAL MATTERS

Brokers should not engage in activities, which constitute the practice of law and should recommend that legal counsel be obtained when a tax liability or legal interest of either party requires it.

12) AGENCY WITH VENDOR

A listing agent should enter into a written agreement with the vendor, recording all relevant information and terms and conditions of that agency agreement (refer NZMIA Authority to Sell Documentation).

13) AGENCY/INTRODUCTION

- a. The agency of a broker who holds a sole agency should be respected.
- b. Negotiations for purchase of a vessel listed exclusively on a sole agency with another agency should be carried on through the sole agent listing brokers, not the owner except with the express consent of the listing broker.
- c. Brokers should, by mutual agreement, co-operate with other brokers on vessels listed with them whenever it is in the interest of clients.
- d. There is no obligation for a member brokerage to co-operate with another brokerage company on any sale. Any shared commission arrangement should be negotiated between the respective brokerages and prior to a client viewing the vessel or the submission of any offer to purchase.
- e. Determination of Agent when more than one agent introduces same purchaser to boat:
 - (i) When two or more NZMIA brokerage companies may have introduced the same purchaser to the same boat being sold when the vessel is not currently in a sole agency, the introduction broker constitutes the broker who first physically took the purchaser through the boat, or,
 - (ii) The first who presented a written offer from the purchaser to the vendor.The introduction determination is valid for 90 days from the date of introduction as per in (i) and (ii) above (whichever is the most recent).

14) PROFESSIONAL INTEGRITY AND COURTESY

- a. A broker should not voluntarily disparage the business practice of a competitor, nor volunteer an opinion of a competitor's transaction. If his opinion is sought, it should be rendered with strict professional integrity and courtesy.
- b. A broker should seek no unfair advantage over fellow brokers and should willingly share with them the lessons of experience and study.
- c. In justice to those who place their interests in the broker's care, the broker should endeavour always to be informed regarding laws, proposed legislation, and other essential information and public policies which affect those interests.

A Broker should not acquire an interest in or buy for himself/herself or for any member of his/her immediate family, his/her firm or any member thereof, or any entity in which he/she has a substantial ownership interest, vessels listed with him/her, or his/her firm, without declaring his interest to the listing owner. When selling vessels owned by him/her, or in which he/she has such interest, the facts should be revealed to the purchaser.

15) COMPLAINT MEDIATION PROCESS

A broker should conduct business as to avoid controversies with fellow brokers. Any controversy arising between brokers who are members of the NZ NZMIA should be mediated in accordance with the NZMIA's complaint mediation process rather than litigated.

13) NZMIA LOYALTY

It is in the best interest of the NZMIA and the broker's business that the broker be loyal to the NZMIA and be active in its work.

This certificate remains the property of the NZ Marine Industry Association. If the holder for any reason ceases to remain a member, this certificate becomes null and void and must be returned to the Association.

(Current as at 22 August 2022)