

# **Process Review Panel for the Insurance Authority**

**2023 Annual Report**

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## **Message from the Chairman**

The Process Review Panel for the Insurance Authority (“PRP”) was established in 2019 to review and advise the Insurance Authority (“IA”) on the adequacy of the IA’s internal procedures and operational guidelines governing the actions taken and operational decisions made by the IA and its staff in the performance of the IA’s regulatory functions. I present to you the third Annual Report of the PRP, covering the review period between 1 January and 31 December 2022.

Since assuming the statutory role of supervision over insurers from 2017 and insurance intermediaries from 2019, the IA’s operations in carrying out various regulatory functions have continued to evolve with the benefit of experience accumulated. There were refinements and streamlining of procedures implemented in the review period as the IA worked to establish more efficient mechanisms for regulating the insurance industry. It is encouraging to note that some of these measures were follow-up actions taken by the IA to address recommendations of the PRP in the 2022 Annual Report. I believe that constructive exchange maintained between the IA and the PRP will continue to yield regulatory enhancements, in turn promoting sustainable industry development and protection of policy holders.

Similar to preceding report cycles, the PRP reviewed a selection of cases completed or discontinued by the IA during the review period. These cases illustrated the processes adopted by the IA in performing its main regulatory activities, including complaint handling, authorization of insurers, licensing of intermediaries, co-ordination with other financial regulators and exercise of statutory powers. Given that the IA had concluded a vast majority of cases carried over from the former self-regulatory regime for insurance intermediaries, including high volume of licensing applications and a number of disciplinary cases processed based on transitional arrangements, the PRP shifted some focus from licensing matters which were relatively straightforward and considered a larger proportion of cases on the IA exercising statutory powers such as investigations against misconduct of licensed intermediaries.

With the co-operation of the IA and secretariat support provided by the Financial Services and the Treasury Bureau, the PRP studied the internal procedures and operational guidelines applicable to the selected cases, taking into account the IA's response to our views and enquiries. The resulting observations and recommendations of the PRP are detailed in this report.

I would like to thank sincerely all Members for contributing their valuable time, effort, experience and expertise to support the work of the PRP, serving to ensure that the IA exercises its regulatory powers in a fair and consistent manner.

**Mr Eugene Fung, SC**  
**Chairman**  
**February 2024**

# **Chapter 1:**

## **Background**

### **Overview**

- 1.1 The Process Review Panel for the Insurance Authority (“PRP”) is an independent panel established by the Chief Executive on 1 November 2019.
- 1.2 The PRP is tasked to review and advise the Insurance Authority (“IA”) on the adequacy of the IA’s internal procedures and operational guidelines governing the actions taken and operational decisions made by the IA and its staff in the performance of the IA’s regulatory functions.

### **Functions**

- 1.3 The Terms of Reference of the PRP are as follows –
  - (a) To review and advise the IA upon the adequacy of the IA’s internal procedures and operational guidelines governing the actions taken and operational decisions made by the IA and its staff in the performance of the IA’s regulatory functions in relation to the following areas –
    - (i) receipt and handling of complaints;
    - (ii) authorization of insurers and associated matters;
    - (iii) licensing of intermediaries and associated matters;
    - (iv) co-ordination and follow-up with the Hong Kong Monetary Authority (“HKMA”) in relation to the inspection and investigation of banks’ insurance intermediary activities; and
    - (v) exercise of statutory powers of inspection, investigation, imposing disciplinary sanctions and prosecution.
  - (b) To receive and consider periodic reports from the IA on all completed or discontinued cases in the above-mentioned areas, including reports on the results of prosecutions of offences within the IA’s jurisdiction and of any subsequent appeals.

- (c) To receive and consider periodic reports from the IA in respect of the manner in which complaints against the IA or its staff have been considered and dealt with.
- (d) To call for and review the IA's files relating to any case or complaint referred to in the periodic reports mentioned in paragraphs (b) and (c) above for the purpose of verifying that the actions taken and decisions made in relation to that case or complaint adhered to and are consistent with the relevant internal procedures and operational guidelines and to advise the IA accordingly.
- (e) To receive and consider periodic reports from the IA on all investigations and inquiries lasting more than one year.
- (f) To advise the IA on such other matters as the IA may refer to the Panel or on which the Panel may wish to advise.
- (g) To submit annual reports and, if appropriate, special reports (including reports on problems encountered by the Panel) to the Financial Secretary which, subject to applicable statutory secrecy provisions and other confidentiality requirements, should be published.
- (h) The above terms of reference do not apply to committees, panels or other bodies set up under the IA, the majority of which members are independent of the IA.

1.4 The PRP does not judge the merits of the IA's decisions and actions, instead focusing on the procedural propriety of the regulatory regime.

## **Membership**

- 1.5 The PRP comprises a Chairman and Members from various sectors including academic, accounting, insurance, legal, real estate development and social services. The Chairman of the IA and the Secretary for Justice (or his representative) are ex-officio members of the PRP.
- 1.6 Membership of the PRP from 1 November 2021 to 31 October 2023 is as follows –

### Chairman

Mr Eugene Fung Ting-sek, SC

### Members

Miss Grace Chan Man-yee

Mr Paul Cheung Lap

Mr Chow Wai-shun

Mrs Agnes Koon Woo Kam-oi, MH

Mr Patrick Law Fu-yuen

Dr James C Lin

Mr Jeff Wong Kwan-kit

### Ex-officio Members

Mr Stephen Yiu Kin-wah, JP

(in the capacity as the Chairman of the IA)

Dr Boyce Yung Kin-chung

(in the capacity as the representative of the Secretary for Justice)

### Secretariat

Financial Services and the Treasury Bureau

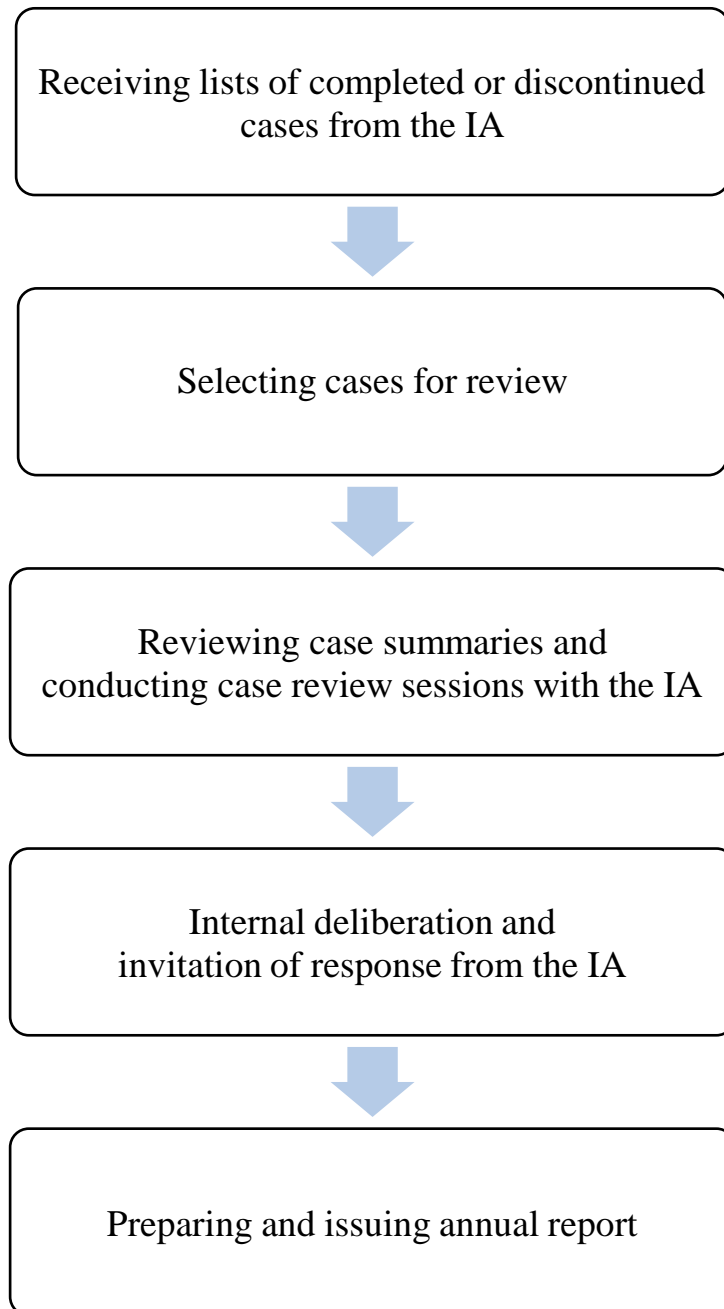
## **Chapter 2: Work of the PRP**

### **Modus operandi**

- 2.1 For the PRP to perform functions set out in its Terms of Reference, the IA provides lists of completed or discontinued cases in the review period from which the PRP selects cases for review. Based on the PRP's selection, the IA provides case summaries, together with the relevant internal procedures and operational guidelines, for the perusal of the Members.
- 2.2 Case review sessions are held at which representatives of the IA respond to any questions PRP Members may have on the process of the selected cases and make available the relevant case files for Members' review.
- 2.3 The PRP discusses and endorses observations and recommendations with respect to the internal procedures and operational guidelines of the cases reviewed and invites the IA to respond and follow up.
- 2.4 The PRP issues an annual report setting out the observations and recommendations of the PRP having regard to the response of the IA.
- 2.5 Members of the PRP are obliged to preserve secrecy in relation to information furnished to them in the course of the PRP's work. To maintain the independence and impartiality of the PRP, all Members are required to make a declaration of interest upon appointment to the PRP and when any potential conflict of interest arises.



2.6 The workflow of the PRP is summarized in the flowchart below –



## Work of the PRP in the current review cycle

- 2.7 Following the first two annual reports adopting 18-month review cycles, the PRP elected the full-year period between 1 January and 31 December 2022 (“current review period”) for preparation of the 2023 Annual Report.
- 2.8 In the current review period, the IA completed or discontinued a total of 47,558 cases (over 12 months). This was fewer than the preceding review cycle (111,885 cases in the 18 months between 1 July 2020 and 31 December 2021), mainly due to reduction in cases related to “deemed licensing” of intermediaries<sup>1</sup>. The proportion of case count across different areas of the IA’s regulatory functions was similar to previous years, notable though was an increase in the number of cases related to the IA’s exercise of enforcement powers from actions taken against insurance intermediaries failing to comply with Continuing Professional Development (“CPD”) requirements<sup>2</sup>.
- 2.9 Based on the lists of 47,558 completed or discontinued cases in the current review period as provided by the IA, the PRP selected 22 cases which covered a wide range of categories involving various aspects of the IA’s work. This was fewer than the 30 cases selected in previous review cycles, having considered the length of the review period, volume of total cases and experience with examining the IA’s regulatory functions from preparing previous reports. Distribution of the 22 selected cases is set out in the table below –

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<sup>1</sup> The Insurance Companies (Amendment) Ordinance 2015, which established the independent IA, provided transitional arrangement for insurance intermediaries previously registered with the three former self-regulatory organizations to be “deemed licensees” for three years following commencement of the new statutory regulatory regime for insurance intermediaries on 23 September 2019. “Deemed licensees” had to obtain formal licences from the IA to continue conducting regulated activities, leading to an influx of such applications in the preceding review period. Number of such cases dropped significantly as the last of these applications were completed by the expiry of transitional period on 22 September 2022.

<sup>2</sup> Further to assuming direct regulation of insurance intermediaries, the IA allowed a Combined CPD Assessment Period from 23 September 2019 to 31 July 2021 as a facilitative measure under the impact of COVID-19. The IA introduced its CPD Penalty Framework in 2021 and processed large batches of CPD non-compliance enforcement cases in the current review period.

<b>Category of cases selected for review</b>	<b>Number of cases</b>
Receipt and handling of complaints (excluding complaints against the IA or its staff)	2
Receipt and handling of complaints – Complaints against the IA or its staff	2
Authorization of insurers and related matters	2
Licensing of intermediaries and associated matters	4
Co-ordination and follow-up with the HKMA in relation to the inspection and investigation of banks' insurance intermediary activities	2
Exercise of statutory powers of inspection, investigation, imposing disciplinary sanctions and prosecution (including subsequent appeals)	10
<b>Total number of selected cases</b>	<b>22</b>

2.10 The PRP formed two sub-groups, each allocated 11 cases across different categories, to review the process with reference to case summaries as well as relevant internal procedures and operational guidelines provided by the IA. Each sub-group held a case review session with the IA, where IA's case officers presented their files and responded to enquiries by PRP Members.

2.11 Follow-up actions taken by the IA on the PRP's recommendations in 2022 Annual Report are set out in Chapter 3. Observations and recommendations of the PRP in respect of selected cases of the current review period are set out in Chapter 4.

### Chapter 3:

## Follow-up Actions Taken by the IA on Recommendations of the PRP in the 2022 Annual Report

3.1 The IA has taken a number of follow-up actions in light of the recommendations by the PRP in its 2022 Annual Report as summarised in the table below –

	<b>Recommendations</b>	<b>Follow-up actions taken by the IA</b>
<i>Complaint handling procedures</i>		
1	The PRP <u>suggested</u> the IA to consider requesting the complainants or insurers concerned to provide the necessary information or documents to the IA within a commensurate timeframe, and taking appropriate follow-up actions if the parties concerned did not respond on time (e.g. sending reminders or closing the case after repeated reminders).	The IA is responsible for directly handling complaints related to market conduct, while other complaints will be referred to authorized insurers and/or licensed intermediaries for necessary follow-up actions under close monitoring. Excluding those complaints referred to bodies such as the HKMA, the Voluntary Health Insurance Scheme Office and the Insurance Complaints Bureau, as well as complaints that may involve formal investigation, the IA aims to conclude 80% of complaints within six months with effect from 1 September 2023.
2	The PRP <u>recommended</u> the IA to consider indicating to the complainants, at an appropriate juncture, that their cases would be closed at a specific time if there was no further development.	If additional information is required, the IA will contact the complainant and issue a reminder in case no response is received after one month, informing the complainant that the case will be closed should there be no response or no supply of material information within the next month.

	<b>Recommendations</b>	<b>Follow-up actions taken by the IA</b>
		Following a review of procedures, the IA designed a template to obtain relevant information from insurers and promulgated a set of best practice principles <sup>3</sup> in March 2022 to ensure that customers are treated fairly. The decision to close a case if no response is received from the complainant two months after a final reply has been issued is also expounded in Frequently Asked Questions on the IA website <sup>4</sup> .
3	The PRP <u>opined</u> that the IA should suitably warn and educate the public on fraud and other insurance related illegal activities where members of the public may fall victim to.	The IA has embarked on a holistic approach by advising complainants when fraud or other illegal activities are detected and alerting the general public via press releases and thematic articles published in the “Conduct in Focus” <sup>5</sup> periodical.
<i>Processing of intermediary licence applications</i>		
4	The PRP <u>invited</u> the IA to consider establishing performance pledges for applications for intermediary licences, which would facilitate the management of cases and increase transparency.	For individual intermediaries, the IA has pledged to complete processing straightforward cases filed via the electronic portal within five business days, as against at least three weeks for paper applications.

<sup>3</sup> Details are available in the fourth issue of “Conduct in Focus” at [https://www.ia.org.hk/en/infocenter/files/Conduct\\_in\\_Focus\\_Mar\\_issue\\_EN.pdf](https://www.ia.org.hk/en/infocenter/files/Conduct_in_Focus_Mar_issue_EN.pdf)

<sup>4</sup> Relevant procedures are set out in Q11 of the Frequency Asked Questions on Complaint Handling at [https://www.ia.org.hk/en/infocenter/faqs/faqs\\_17.html](https://www.ia.org.hk/en/infocenter/faqs/faqs_17.html)

<sup>5</sup> Details are available under the “Policyholder Corner” in the fourth issue of “Conduct in Focus” at [https://www.ia.org.hk/en/infocenter/files/Conduct\\_in\\_Focus\\_Mar\\_issue\\_EN.pdf](https://www.ia.org.hk/en/infocenter/files/Conduct_in_Focus_Mar_issue_EN.pdf)

	<b>Recommendations</b>	<b>Follow-up actions taken by the IA</b>
5	The PRP <u>suggested</u> the IA to set a time limit for applicants to submit the required / outstanding information, with a view to encouraging prompt response from the applicants and avoiding undue delay.	The IA has laid down procedures for its staff to determine whether a case deserves on-going attention or should be returned to the applicant because of missing documents or information. These procedures have been updated to require resubmission of pending documents or information within 90 calendar days, and system reminders will be sent to the applicant at regular time intervals.
6	The PRP <u>suggested</u> the IA to streamline both the electronic and paper application processes such that only applications with a basic set of required information and documents provided would be accepted for further processing.	
7	The PRP <u>suggested</u> the IA to consider measuring the case processing time only after receiving the required information and documents.	
8	The PRP <u>invited</u> the IA to consider whether it would be suitable to extend the coverage of the electronic portal to applications for insurance agency licences, with a view to enhancing the efficiency of the processing of the applications in the long run.	The IA will extend coverage of the electronic portal to applications for renewal of licence from insurance agencies and broker companies in 2024, while an assessment is being made on the timing for inclusion of applications for new licence.
9	The PRP <u>recommended</u> the IA to provide applicants for agency licences with a checklist of the essential	A checklist of essential documents and information has been uploaded onto the IA website.

	<b>Recommendations</b>	<b>Follow-up actions taken by the IA</b>
	documents and information which must be submitted by the applicants, with a view to facilitating the applicants and reducing the processing time.	
<i>Exercise of statutory powers</i>		
10	The PRP <u>recommended</u> the IA to review the relevant procedures (e.g. the electronic portal and application forms) for room to put in place measures to facilitate disciplinary actions against the use of false documents in intermediary licence applications, even when the applicants concerned refused to co-operate with the IA or left the industry, with a view to maintaining enforcement efficiency and integrity of the regulatory regime.	The IA takes a serious view on forgery of documents and has initiated strong enforcement actions against the use of false academic certificates involving cases inherited from the three former self-regulatory organizations, widely publicized these enforcement actions to achieve the desired deterrence, criminal prosecutions will be contemplated for cases that occurred after the statutory intermediary regulatory regime kicked in on 23 September 2019, and conveyed to insurers the regulatory expectations on internal controls that should be in place to screen prospective recruits.
11	The PRP <u>suggested</u> the IA to consider whether it would be necessary to involve the Police (e.g. the IA to contact the Police, advise the complainants concerned to contact the Police, or liaise with the relevant financial regulator to refer the case to the Police).	In December 2022, the IA issued a set of internal guidance for officers in the Enforcement Team on when should a referral be made to the Police or other law enforcement agencies.

	<b>Recommendations</b>	<b>Follow-up actions taken by the IA</b>
12	The PRP <u>recommended</u> the IA to highlight to the industry (e.g. through training or reminders in relevant code of conduct) the seriousness of forgery of signatures, use of false documentations and other similar criminal activities, and take decisive disciplinary actions against such activities.	In May 2022, the IA ran a training course targeted at Key Persons in Control Function for Intermediary Management to raise their awareness on the importance of preventing and mitigating the risk of misconduct. This is complemented later by a few CPD courses on business ethics and anti-money laundering delivered to industry practitioners.
13	The PRP <u>invited</u> the IA to consider setting up internal guidelines (or key performance indicators (“KPI”)) on the length of time that should be taken to process disciplinary cases.	In October 2022, the IA rolled out a framework for the Enforcement Team on the time taken to complete case assessment and investigation, with extension of time built in based on level of complexity, cooperation of parties and competing priorities.  Concurrently, refinements were made to the terms of reference so that the Disciplinary Panel Pool (“DPP”) may delegate cases that are trivial and repetitive (e.g. non-fulfilment of CPD requirements) to senior officers of the IA so that it could focus on the impactful ones.

3.2 The PRP welcomed the above follow-up actions and looked forward to the IA’s continuous efforts to ensure procedural propriety of the regulatory regime.



## **Chapter 4:**

### **Observations and Recommendations on Cases Reviewed**

#### **Overview**

4.1 Based on the modus operandi set out in Chapter 2 above, the PRP considered 22 cases in the current review cycle. These cases covered five areas of the IA's main duties as set out in the Terms of Reference of the PRP, including –

- (a) four cases of complaint handling, including two complaints against insurers and/or their intermediaries and two complaints against the IA and/or its staff, covering both substantiated and not substantiated cases. The processing time of these cases ranged from two to 33 months;
- (b) two cases related to the authorization of insurers, both completed in about one month;
- (c) four cases in relation to licensing of intermediaries, covering new and deemed licence applications submitted by individuals or business entities. These cases consisted of applications approved or withdrawn, with the case processing time ranging from 16 to 20 months;
- (d) two cases on the IA's co-ordination with the HKMA to regulate insurance intermediary activities by banks, both being regular meetings conducted through video conference; and
- (e) ten cases relating to the exercise of statutory powers such as investigation and imposing disciplinary sanctions (including subsequent appeals). These cases concerned different issues of alleged misconduct by individuals and business entities subject to the IA's regulation, with processing time ranging from ten to 48 months.

4.2 The PRP identified five common issues in reviewing the various cases processed by the IA, including –

- (a) streamlining of certain procedures;
- (b) manpower issues;

- (c) positive attitude of the IA staff;
- (d) time processing issues; and
- (e) prioritising cases.

4.3 Overall, the PRP found that the reviewed cases did not give any impression of significant deficiency on the part of the IA. Detailed observations and recommendations made by the PRP in relation to the five common issues identified across different types of cases are set out in the following paragraphs.

### **Streamlining of certain procedures**

4.4 With reference to the IA's operational procedures and clarifications during the case review sessions, the PRP noted that the IA had implemented various measures based on the PRP's previous recommendations and the IA's practical experience to enhance its regulatory processes, while there remained some procedures which may be further streamlined or replaced to promote efficiency.

4.5 In the current review cycle, the PRP selected more cases on the IA's enforcement actions, given these cases were relatively complex and involved important procedures such as operation of the Expert Advisor Panel<sup>6</sup> and the DPP<sup>7</sup>, adoption of the Penalty Framework for Non-compliance with CPD Requirements, etc., which were implemented recently and continued to be fine-tuned by the IA. The PRP noted that the IA, with reference to the PRP's previous recommendations and its practical experience, had rolled out enhancement to its procedures, such as establishing an internal timeline framework for case assessment and investigation. Yet, the PRP provided the following views on further streamlining procedures for more effective enforcement –

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<sup>6</sup> The Expert Advisor Panel comprises seasoned industry practitioners who provide input on the level of sanction required to achieve a desired deterrent effect for specific offences and to serve as a source of market intelligence.

<sup>7</sup> The DPP comprises executive and non-executive directors of the IA as well as experienced professionals in the legal, financial and other relevant fields who will be called upon to form Disciplinary Panels. Members are drawn from the pool to form a Disciplinary Panel ("DP") for making decisions on disciplinary actions by the IA.

- (a) while the IA’s procedural manual for investigation cases called for formal interview with involved parties (such as the persons being investigated, complainants or witnesses), the PRP suggested that the IA should only conduct interviews where necessary, while relatively straightforward cases may be processed through written correspondence, and take proactive follow-up action if any complainant or respondent was unresponsive in the investigation process;<sup>8</sup>
  
- (b) in some enforcement and disciplinary cases which involved the IA cooperating with other financial regulators, namely the HKMA or the Mandatory Provident Fund Schemes Authority (“MPFA”), the PRP noted the respective roles of regulators at different stages of case processing. While the regulators may conclude such cases with a joint decision, the PRP opined that the IA should give due consideration on imposing appropriate sanctions targeting specific aspect of misconduct in regulated insurance activities to avoid double jeopardy and preserve sufficient deterrence;<sup>9</sup> and

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<sup>8</sup> Relevant issues of streamlining investigation procedure were considered by the PRP in reviewing –

- (i) Case 7 – a case of formal investigation against two broker companies initiated in May 2020 and concluded in April 2022, with further disciplinary action taken in March 2023. In accordance with its Investigation Manual, the IA investigated misconduct of failing to maintain client monies in respective client accounts, with process of internal coordination involving a connected case of deemed broker license application (i.e. Case 5 as described in footnote 18 below) and rounds of exchange with the broker companies in question. The PRP’s discussion covered standard practices of the IA conducting oral interviews for investigations, as well as challenges face by the IA including manpower constraint; and
- (ii) Case 8 – a case of formal investigation by the IA against an MPF subsidiary intermediary for unauthorized transfer of a client’s accrued benefits, initiated in August 2020 and followed by the IA’s request for information, telephone enquiry and interviews (including multiple invitations) which were postponed by the complainant from September 2021 to April 2022. The complainant ultimately stopped responding and the case was closed upon the IA informing the MPFA of investigation findings in June 2022. The PRP’s discussion covered the IA’s practices of handling unresponsive respondents as well as termination of investigation.

<sup>9</sup> Relevant issues of cross-sector regulatory procedure were considered by the PRP in reviewing –

- (i) Case 9 – a case of formal investigation against a licensed insurance intermediary of a bank for improper policy replacement, which involved issues of regulatory coordination between the IA and HKMA under unusual circumstances of referral from a former self-regulatory organisation, such that the IA eventually handled the case rather than having the HKMA assist with the frontline investigation. The PRP noted the transitional issue, while coordination between the IA and HKMA has been aligned since then.; and
- (ii) Case 19 – a case of formal investigation by the IA against two MPF subsidiary intermediaries on multiple allegations including forged signatures. Investigation commenced in May 2018 with rounds of interviews and recordings/documents exchanged with ten different entities, until findings were passed to the MPFA in April 2022 for determination of disciplinary action. The

- (c) the PRP expressed concern that the DP process was a bottleneck for reaching decision after investigation had concluded for some cases. Acknowledging the IA's effort in setting out the CPD Penalty Framework in 2021 and revising the Terms of Reference for the DPP in 2022, the PRP suggested that the IA may further streamline procedures by allowing the relevant IA officers to impose disciplinary sanction for more common and straightforward cases without having to go through a DP, by way of establishing standardized assessment and penalty schedules for specific types and severity of misconduct.<sup>10</sup>

4.6 In a case of complaint against an insurer<sup>11</sup>, the PRP noted that there were extended rounds of exchange between the complainant and the insurer over some dispute on policy terms, and that the IA may step in to facilitate the complaint handling process. The PRP suggested that the IA may consider (i) taking action at an early stage to help identify and, where appropriate, clarify any difficulty or misunderstanding; and (ii) closely following up such complaints

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PRP discussed regulatory action that may be taken either jointly with the MPFA or further imposed by the IA specifically from the insurance sector perspective, noting there should be clear coordination and sufficiently severe sanction against serious offence.

- <sup>10</sup> Relevant issues of streamlining disciplinary procedure were considered by the PRP in reviewing –
- (i) Case 20 – a case of formal investigation against an agent for misappropriation of client's premium, initiated in January 2021 and referred to the Disciplinary Unit for action in July 2022. The PRP noted that the entire disciplinary process, still pending outcome after a lengthy investigation, would take even more time; and
  - (ii) Case 21 – a case of formal investigation against two agents for improper policy replacement and misrepresentation, initiated in May 2020 and concluded with Letter of Concern issued in July 2022. The PRP's discussion covered the criteria to decide whether to refer a case for disciplinary action, as well as enhancement measure of internal timeline implemented by the IA; and
  - (iii) Case 22 – a case of formal investigation against two agents for misappropriation of multiple clients' premium, initiated in May 2020 and referred to the Disciplinary Unit for action in October 2022. The PRP reiterated concern about lengthy and complex disciplinary procedures which should be streamlined for relatively straightforward cases.

- <sup>11</sup> The relevant case, Case 12, was a complaint referred from one of the former self-regulatory organisations against an insurer, involving dispute on policy terms and other allegations of upselling, data leakage, etc. After receiving information from the complainant in November 2019, the IA referred the case to the insurer in January 2020 in accordance with standard procedures. There were lengthy rounds of discussion between the complainant and insurer from February 2020 to March 2022 with further allegations raised, and the case was eventually closed in May 2022 with no new information received from the complainant. The PRP noted this case was complicated by misunderstanding between the parties and the IA may facilitate better communication.

referred to the relevant insurers to ensure timely responses and providing complainants with well-reasoned conclusion of the IA's assessment.

4.7 Acknowledging that the IA had applied technology to assist performance of some regulatory functions, such as processing electronic submission of licence applications via an online portal "Insurance Intermediaries Connect" and enhancing communication in disciplinary proceedings or investigations with the Enforcement Correspondence Platform, the PRP invited the IA to ensure smooth operation and further promote utilisation of its online platforms, exploring ways to benefit more aspects of the IA's work with IT systems.<sup>12</sup>

4.8 Moreover, to co-ordinate on matters of mutual interest in the performance of supervisory functions involving insurance intermediary activities by banks, the IA and the HKMA would convene regular meetings under the Memorandum of Understanding signed between the two regulators to discuss on-going licensing, complaints handling, inspection, investigation and disciplinary action.<sup>13</sup> The PRP noted that co-operation between the financial regulators was conducive to resolving cross-sector issues and enhancing procedural efficiency for proper regulation of the respective sectors.

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<sup>12</sup> Relevant issues on utilisation of IT system were considered by the PRP in reviewing –

- (i) Case 4 – a case of deemed licence application for an individual agent processed through the IA's Insurance Intermediaries Connect ("IIC") online platform, where the application submitted in March 2021 was approved in April 2021 but became invalid upon termination by the appointing principal. Due to system error, there was a mismatch of the application status until the applicant's new appointing principal attempted to make a new application, such that the IA became aware of the issue and was able to rectify the IT problem and approve the application in August 2022. The PRP noted that the IA was able to fix the one-off issue efficiently and performed further system enhancement to prevent future error; and
- (ii) Case 10 – a case of disciplinary action imposed against non-compliance with CPD requirements of an individual, determined by a DP among a batch of over 300 similar cases. The PRP noted the IA's implementation of CPD Penalty Framework, as well as other measures, e.g. launching an Enforcement Correspondence Platform through the IIC, to facilitate communication and streamline investigation / disciplinary procedures.

<sup>13</sup> Two cases, i.e. Cases 6 and 17, of regular biannual/annual meetings (conducted via video conference in April 2022 and August 2022 respectively) between the IA and HKMA pursuant to a Memorandum of Understanding between the two regulators were reviewed. The PRP took note of the regulatory co-operation mechanism and had no further enquiry/comment.

## Response from the IA

- 4.9 The suggestions of the PRP are in line with our plan. The advent of the Enforcement Correspondence Platform in March 2023 is part of this plan, and similar technological solutions are being looked into. We are amenable to the idea of gathering more evidence through written correspondence instead of face-to-face interviews under appropriate circumstances.
- 4.10 Meanwhile, the DPP was expanded in October 2023 by an injection of 20 members with requisite professional expertise such that more disciplinary cases can be heard. Besides, we are also exploring further enhancement opportunities to the disciplinary mechanism by carving out of less serious and homogenous cases for delegation to senior officers of the IA so that the DPP could focus on the more impactful ones.
- 4.11 The IA works closely with other regulators to avoid double-jeopardy, whilst at the same time, ensuring that if the results of a case brought by another regulator demonstrate that the fitness and properness of the person as a licensed insurance intermediary is impugned, disciplinary action by the IA should also be taken to protect the insurance buying public. Finally, we have articulated the best practice principles on handling of complaints to insurers and intermediaries that converge on ensuring that customers are treated fairly and will place emphasis on these principles when monitoring the cases followed up by insurers.

### **Manpower issues**

- 4.12 There were cases indicating manpower limitation which arose from increased workload and complexity, while some cases suggested that more resources would be needed in certain arms of the IA.
- 4.13 In particular, the PRP noted that the IA's case officers handling investigation and disciplinary actions were fully engaged in heavy caseload and other duties such as devising and implementing new

guidelines.<sup>14</sup> This observation often arose in more complex and significant cases, such as those involving numerous parties and potential criminal liabilities, that required ample manpower to handle the investigation, legal and liaison work involved.<sup>15</sup> Recognising the challenges faced by the IA at initial stages of commencing its enforcement operations and emphasizing on the need for IA to process enforcement cases in a timely manner, the PRP opined that it remained the PRP's concern that proper process was upheld in the work of the IA, and the IA should address any issue in recruiting and retaining staff to secure the necessary manpower for adequate performance of regulatory functions.

#### Response from the IA

- 4.14 We acknowledge that case officers may sometimes get bogged down by the need to formulate procedures and guidelines to cope with unique or prevailing circumstances while they are heavily involved in conducting investigations collecting cogent evidence and upholding due process. Every effort will be made to improve the efficacy of staff recruitment and retention campaigns to ensure that capable talents are available to discharge the full range of our regulatory functions.

#### **Positive attitude of the IA staff**

- 4.15 There were cases showing that the IA staff adopted positive attitude in carrying out their work and went beyond their duties. The PRP expressly acknowledged the IA's efforts in performing its regulatory duties.

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<sup>14</sup> In reviewing Case 7, a case of formal investigation against two broker companies which was linked with processing of a deemed broker licence application (described in footnote 8(i)), below), the PRP noted the issue of manpower shortage experienced by the IA's enforcement team (total of 21 investigators, with one case officer and a supervisor assigned to each case) as workload in terms of complexity and volume of cases increased.

<sup>15</sup> In reviewing Case 19, a case of formal investigation conducted as the frontline regulator involving an MPF subsidiary intermediary on serious allegations such as forgery (described in above footnote 9(ii)), the PRP noted that the manpower to handle enforcement workload was spread thin.

- 4.16 In relation to authorization of insurers, the PRP noted that the two cases on authorization of special purpose insurers (“SPI”)<sup>16</sup> were completed within a shorter timeframe than authorization of ordinary insurers, given that extensive preparatory work had been done by the IA to ensure a smooth process under the dedicated regulatory regime established in 2021 to facilitate issuance of insurance-linked securities (“ILS”)<sup>17</sup> in Hong Kong through SPIs.
- 4.17 In a case of application for insurance broker licence by a deemed licensee that took 20 months to complete<sup>18</sup>, the PRP noted that the applicant was entangled in complex management and financial issues involving multiple business entities, such that the IA took extra steps of conducting onsite inspection to carefully consider the application. The PRP expressed appreciation for relevant officers of the IA going beyond standard procedures towards ensuring prudent supervision of insurance intermediaries, demonstrating the IA’s commitment to its regulatory functions. The PRP also recognized constructive internal co-operation between officers in different teams, which the IA should continue to foster for effective processing of multi-faceted cases.

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<sup>16</sup> These were the only authorization applications processed by the IA during the review period, both cases involving new authorization of SPI to issue ILS. Specifically –

- (i) Case 3 – the second SPI authorized in Hong Kong, with application filed in March 2022 followed by approval-in-principal in April 2022 and formal authorization in May 2022; and
- (ii) Case 14 – the third SPI authorized in Hong Kong, with application filed in October 2022 followed by approval-in-principal in November 2022 and formal authorization in December 2022,

while there were no cases on other types of insurers. The PRP noted the process was expedited by extensive groundwork and took less time compared with the standard timeline for authorization of insurer carrying out typical lines of business.

<sup>17</sup> ILS is a risk management tool that enables insurers or reinsurers to offload risks that they have underwritten to the capital market by way of securitization. It is an alternative form of risk transfer and diversification which is gaining popularity in the global market, and a key development area for the Hong Kong insurance industry.

<sup>18</sup> The relevant case, Case 5, concerned a deemed licence application for a broker company connected to another broker company within the same corporate group, with several regulatory breaches committed by both companies, involving complications of management and financial issues among the business entities. Upon receiving applications from the two companies in February 2021, the IA took initiative to conduct a holistic review, including an onsite inspection, to ensure that remediation measures were implemented after disciplinary actions had been handed down on both companies. The IA took further action to request revised applications, issue management letters on inspection findings and follow up remediation measures before the deemed licence application was approved in September 2022.



## Response from the IA

4.18 We are grateful to the PRP for its compliment and will encourage our staff to continue to do their utmost to protect the interests of policy holders without losing sight of promoting market development.

### **Time processing issues**

4.19 Longer processing time was observed in some of the cases reviewed, and could be attributed to one-off incidents, understandable reasons and unexpected matters. The PRP expected the efficiency of the IA staff in handling various types of cases to progressively increase along the accumulation of experience.

4.20 For areas of the IA's regulatory functions with light caseload in this review cycle, such as complaint against the IA staff<sup>19</sup> and authorization of insurers<sup>20</sup> the PRP noted that these cases were generally processed in an efficient manner and within established target timeframes.

4.21 Nevertheless, there were cases of complaints, licensing and enforcement which were affected by one-off incidents that caused prolonged processing time. Such incidents included IT issues (e.g. the PRP reviewed a case that involved a technical IT system error in recording an intermediary's licensing status which went undetected

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<sup>19</sup> These were the two cases of complaint against the IA or its staff selected for review including –

(i) Case 2 – an unsubstantiated complaint against a member of the IA's staff for failing to thoroughly investigate complaint against an insurer, filed in December 2021 followed by the IA's acknowledgement, interview with involved parties, interim reply, internal review and eventual case closure upon reply to the complainant in April 2022. The PRP noted that the IA processed the case according to established timeframe of issuing reply to the complainant in 30 days unless extended in writing; and

(ii) Case 13 – a substantiated complaint against a member of the IA's staff for poor mannerism towards the complainant, filed in September 2022 and concluded upon reply to the complainant in October 2022. The PRP noted that the case was well-substantiated with CCTV evidence, and the IA subsequently enhanced communications training for frontline staff.

<sup>20</sup> There were two cases involving authorization of SPIs (Cases 3 and 14 as described in above footnote 16) which were processed in one to two months, shorter than the standard timeframe of granting approval-in-principal in two to 2.5 months for typical authorization of insurers.

for some months<sup>21</sup>), transitional issues in relation to cases referred from the former industry self-regulatory organisations<sup>22</sup>, unexpected matters such as office closure under the COVID-19 pandemic<sup>23</sup> and other understandable reasons such as advent of a new type of case<sup>24</sup>. The PRP opined that as the IA staff became more experienced, they should be able to handle various types of cases more efficiently.

4.22 Among the large volume of deemed licence applications received over a three-year transitional period ended in September 2022, the PRP noted that the IA processed batches of such cases in a straightforward manner, while some cases took longer time mostly due to delayed response of applicants from whom the IA requested supplementary information. Noting that new arrangement had been implemented since early 2023 to require re-submission of returned applications within 90 days, the PRP suggested the IA to evaluate whether the duration of processing licence applications was shortened by the new arrangement and further establish a suitable and comprehensive target timeframe for completing applications for intermediary licences.<sup>25</sup>

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<sup>21</sup> In the relevant case of deemed licence application for an individual agent submitted through the IA's IIC online platform (Case 4 as described in above footnote 12(i)), system error led to mismatch of data which was found and rectified over a year after the initial application.

<sup>22</sup> In the current review cycle, there were some cases referred from the former self-regulatory organisations for the IA's processing, such as a case of formal investigation against a licensed insurance intermediary of a bank (Case 9 as described in above footnote 9(i)) where referral to the HKMA for frontline investigation was not available; and a case of formal investigation against an agent for use of false academic certificate (Case 18 as described in footnote 30 below) processed according to pre-existing procedures with no standard practice for reporting potential criminal offence to law enforcement. The IA had completed majority of transitional cases and was shifting to process more cases initiated since the IA assumed independent regulation.

<sup>23</sup> In the current review cycle, many cases were initiated during the COVID-19 epidemic with processing delayed due to office closure. IA case officers mentioned this as a factor in cases such as a complaint against an insurer involving lengthy rounds of exchange between parties (Case 12 as described in above footnote 11), and in most of the enforcement / investigation cases given the difficulty caused in holding interviews with complainants or the persons under investigations.

<sup>24</sup> For example, a case of deemed licence application for a broker company (Case 5 as described in above footnote 18) resulted in the first instance of disciplinary action taken according to transitional practice. It was also mentioned in relation to some enforcement cases that IA case officers were otherwise engaged in complex new case types such as issuing the IA's first search warrants.

<sup>25</sup> This suggestion was made in relation to Case 15, which was a case of new licence application for an individual intermediary, submitted in paper form in January 2021 followed by the IA's internal review and return of the application in March 2021 for the applicant to provide supplementary document on education qualification. The applicant re-submitted the application in March 2022

- 4.23 Similarly, the PRP observed in some complaint cases that the IA officers followed standard procedures, but the process was delayed due to extended periods waiting for response from the complainants, insurers or other parties concerned. Noting that the IA’s complaint handling practice was to close cases where no further response was received two months after reply was issued to the complainant, the PRP suggested that the IA may consider further contingency for persistent complainants and review the optimal window for response to set out a comprehensive target timeframe for completing complaint cases.<sup>26</sup>
- 4.24 For better efficiency in various types of cases, the PRP suggested that the IA should differentiate between straightforward and complex case to assign corresponding timeframe KPIs and provide flexibility in procedures. This process could be assisted and fine-tuned with the collection and analysis of operational data.<sup>27</sup>

#### Response from the IA

- 4.25 We are progressively expanding functionalities of the IIC so that different processes could be automated. The successful inclusion of licence renewal applications by individual intermediaries will be followed by reporting of CPD attainment, releasing manpower for alternative deployment.
- 4.26 On handling of complaints, we welcome suggestions made by the PRP and have reviewed the procedures governing closure of a case.

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and was approved by the IA in April 2022. The PRP’s discussion covered the IA’s measures to limit response time for applicants.

<sup>26</sup> This suggestion was made in relation to Case 1, which was a case of complaint against an insurer and its agent from a beneficiary dissatisfied with the surrender and interpretation of two policies, submitted to the IA in April 2020 with the complainant continuing to pursue the case after rounds of response from the insurer, eventually closed in October 2022 with the IA refraining from further follow-up in the absence of new information or evidence. The PRP noted that the 31-month case processing time (much longer than the six months’ target which the IA was able to meet in about 80% of complaint cases) was largely attributed to the time taken up by correspondence between the complainant and the insurer.

<sup>27</sup> Having reviewed different types of cases with discussion covering the timeframe for processing straightforward and complex cases (such as complaint Case 1 as described in above footnote 26, licensing Case 15 as described in above footnote 25 and enforcement Case 7 described in above footnote 8(i)), the PRP made this general suggestion for better time management in case processing.

We will close a complaint case after the issuance of reply from the relevant responding party(ies). For persistent complainants, we intend to deal with them on individual merits and will invoke the use of Policy of Persistent Complainants in appropriate cases.

- 4.27 Regarding classification of complaints, we agree with the PRP that more operational data should be collected and analyzed to inform the optimal timeframe indicators and flexibility in procedures.

### **Prioritising cases**

- 4.28 There were cases of the IA taking regulatory action against serious misconduct with significant impact on the interests of policy holders, such as falsifying information and misappropriating funds. The PRP believed that such cases should be accorded higher priority to demonstrate effectiveness of the IA's regulatory functions.

- 4.29 To mitigate any negative effect on the insuring public and potential policy holders, the PRP opined that cases with immediate and substantial impact should be expedited, for instance presented to a DP for decision ahead of regular cases, such that timely sanction may be imposed.<sup>28</sup> The PRP also suggested that the IA should appropriately publicise significant regulatory actions taken, with a view to boosting public confidence in prudent regulation of the insurance industry.<sup>29</sup>

- 4.30 For cases potentially giving rise to criminal liability, the PRP noted that the IA had processed transitional cases referred from the former self-regulatory in alignment with pre-existing practices of the previous regime. This was followed by the IA adopting an enhanced approach, in light of the recommendation given by the PRP

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<sup>28</sup> In a case of formal investigation against two agents for misappropriation of multiple clients' premium (Case 22 as described in above footnote 10(iii)), the PRP remarked that the IA should prioritise impactful cases particularly in the DP process.

<sup>29</sup> In this case of formal investigation against two agents for improper policy replacement and misrepresentation which concluded with a Letter of Concern (Case 21 as described in above footnote 9(ii)), the PRP discussed the severity threshold for the IA to take disciplinary action and issue public reprimand.

in the past review cycle, to encourage complainants to follow up with the Police or other relevant law enforcement agencies. The PRP stressed that the IA should take appropriate disciplinary action which commensurate with the protection of policy holders, and that imposing sanction against cases involving criminal activities should be a matter of priority and should achieve sufficient deterrent effect to combat similar criminal activities. Furthermore, with the Insurance Ordinance (Cap. 41) empowering the IA to prosecute specified offences for cases initiated after the transition, pending the first of such prosecution case to transpire, the PRP recommended that the IA should make early preparation and formulate standard procedures to prosecute future cases readily.<sup>30</sup>

#### Response from the IA

- 4.31 The enforcement actions taken on cases involving provision of false information and mishandling of premiums reflect the priority that we accord to eradicating dishonesty, poor ethics and lack of integrity. Save for private reprimands, all such actions are publicized by press release and lessons drawn from selected cases are shared through articles published in the “Conduct in Focus” periodical.
- 4.32 To reinforce capacity to tackle cases with criminal elements as and when they arise, the IA has strengthened staff training by enlisting the support of law enforcement agencies and Department of Justice in respect of criminal investigation and prosecution.

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<sup>30</sup> The issue of the IA’s regulatory action against criminal liability was discussed in Case 18, which concerns a case of formal investigation on an agent’s use of false academic certificate referred from a former self-regulatory organisation and initiated by the IA in May 2020 according to its Investigation Manual. The IA made enquiries with the relevant educational institutions and conducted rounds of interview with follow-up correspondence from July 2020 to November 2021. With the confession of the agent and findings including involvement of his supervisor, the IA referred the case to the Disciplinary Unit in February 2022. The PRP considered the IA’s practices for handling cases potentially constituting criminal offence, in both transitional cases processed in line with the former self-regulatory regime and later cases where the IA may be empowered under the Insurance Ordinance (Cap.41) to prosecute.

## Chapter 5: Way Forward

- 5.1 The PRP is pleased to receive the IA's positive response to the PRP's recommendations. Going forward, the PRP will continue its review work to ensure the adequacy of the IA's internal procedures and operational guidelines.
- 5.2 The PRP welcomes the views of the public and market participants on the work of the PRP. Comments relating to the PRP's work can be referred to the Secretariat of the PRP as follows<sup>31</sup> –

By post : Secretariat of the Process Review Panel for the  
Insurance Authority

24th Floor, Central Government Offices  
2 Tim Mei Avenue  
Tamar

By email : [prpia@fstb.gov.hk](mailto:prpia@fstb.gov.hk)

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<sup>31</sup> Inquiries or comments on work of the IA, not relating to process review, should be made directly to the IA –

By post : Insurance Authority, 19/F, 41 Heung Yip Road, Wong Chuk Hang,  
Hong Kong  
By telephone : (852) 3899 9983  
By fax : (852) 3899 9993  
By email : [enquiry@ia.org.hk](mailto:enquiry@ia.org.hk)

## **Chapter 6: Acknowledgement**

- 6.1 The PRP would like to express its gratitude to the IA for its assistance in facilitating the review work, and its co-operation in responding to the PRP's inquiries and recommendations.

**Process Review Panel for the Insurance Authority  
February 2024**