

LEGISLATIVE COUNCIL BRIEF

Insurance Ordinance
(Chapter 41)

**INSURANCE COMPANIES (AMENDMENT) ORDINANCE 2015
(COMMENCEMENT) NOTICE 2019**

**INSURANCE (MAXIMUM NUMBER OF AUTHORIZED INSURERS)
RULES**

**INSURANCE (FINANCIAL AND OTHER REQUIREMENTS FOR
LICENSED INSURANCE BROKER COMPANIES) RULES**

INTRODUCTION

This paper briefs Members on three pieces of subsidiary legislation that are related to the commencement of the new statutory regulatory regime for insurance intermediaries on 23 September 2019.

2. The Secretary for Financial Services and the Treasury (“SFST”) has made the Insurance Companies (Amendment) Ordinance 2015 (Commencement) Notice 2019 (at **Annex A**) under section 1(2) of the Insurance Companies (Amendment) Ordinance 2015 (“Amendment Ordinance”).
3. The Insurance Authority (“IA”) has also made the following two pieces of subsidiary legislation under section 129(1) of the Insurance Ordinance (“IO”) (Cap. 41) –
 - (a) Insurance (Maximum Number of Authorized Insurers) Rules (“Number Rules”) (at **Annex B**); and
 - (b) Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules (“Broker Rules”) (at **Annex C**).

JUSTIFICATIONS

4. The IA was established on 7 December 2015 after the passage of the Amendment Ordinance. To ensure a smooth transition from the old regulatory regime to the new one, the IA first took over the regulation of insurance companies from the then Office of the Commissioner of Insurance on 26 June 2017 and will take over the supervision of insurance intermediaries from the three Self-regulatory Organizations (“SROs”)¹ later when it is ready.

5. After ascertaining the transitioning process with the SROs, the IA is ready to commence the regulation of insurance intermediaries on 23 September 2019. In addition to a notice made by the SFST to commence the regulatory regime for insurance intermediaries, the IA has also made two sets of rules, one on the maximum number of authorized insurers that an insurance agent may represent and the other on the financial and other requirements for licensed insurance broker companies. The commencement notice and the two sets of rules are all subsidiary legislation.

PROPOSALS

(A) Commencement Notice

6. In accordance with section 1(2) of the Amendment Ordinance, the SFST appoints 23 September 2019 as the day on which the uncommenced provisions of the Amendment Ordinance come into operation such that the IA will regulate insurance intermediaries starting from that date.

(B) Maximum Number of authorized insurers by which a person may be appointed as a licensed insurance agency or licensed individual insurance agent

7. An insurance company, as a principal, appoints individual insurance agents or agencies to act on its behalf to distribute insurance products. According to section 64I(1) of the IO (Cap. 41) added by section 74 of the Amendment

¹ The three SROs are the Insurance Agents Registration Board (“IARB”) established under The Hong Kong Federation of Insurers (“HKFI”), The Hong Kong Confederation of Insurance Brokers (“CIB”) and the Professional Insurance Brokers Association (“PIBA”).

Ordinance, a licensed insurance agency or licensed individual insurance agent may be appointed by more than one authorized insurer to carry on a regulated activity, subject to the maximum number of appointing authorized insurers that are prescribed by rules made by the IA under section 129 of the IO.

8. Under the existing self-regulatory regime, an insurance agent or agency may not be appointed by more than four authorized insurers, out of which no more than two are insurers authorized to carry on long term business. The IA proposes to maintain the existing arrangements under the Number Rules which will also come into operation on 23 September 2019.

(C) Financial and Other Requirements for Licensed Insurance Broker Companies

9. Pursuant to sections 64ZA and 64ZV of the IO added by section 74 of the Amendment Ordinance, any company applying to the IA for a licence as an insurance broker company, or to renew such licence, will have to be able to demonstrate its ability to comply, or continue to comply, with rules made by the IA under section 129 of the IO in relation to –

- (a) capital and net assets;
- (b) professional indemnity insurance;
- (c) keeping of separate client accounts; and
- (d) keeping of proper books and accounts.

10. Also, section 73 of the IO as amended by section 81 of the Amendment Ordinance requires a licensed insurance broker company to provide the IA with audited financial statements together with an auditor's report stating whether the auditor is of the opinion that the company has continued to comply with the rules made by the IA relating to the matters in paragraph 9(a) to (d) above and any other information that is prescribed by rules made by the IA under section 129 of the IO.

11. Accordingly, the IA has made the Broker Rules to prescribe the relevant requirements for insurance broker companies. The Broker Rules are largely modelled on the prevailing requirements in the Guideline on Minimum Requirements for Insurance Brokers issued by the IA ("the Guideline on Minimum Requirements"), with considerations given to the existing membership requirements issued by the two SROs for insurance brokers (viz. CIB and PIBA), save for certain updates and refinements to cater for present day circumstances.

The Guideline on Minimum Requirements will be rescinded on the commencement date.

12. The major changes to the prevailing requirements proposed to be effected by the Broker Rules are set out below –

(a) Capital and Net Assets

Unlike insurance agents who act for their appointing insurers, insurance broker companies represent policy holders and are solely responsible to policy holders for the services they provide. Insurance broker companies have long been subject to minimum capital and net assets requirements to ensure that they maintain sufficient capital to support their business operation and can continue to service policy holders.

The current levels of minimum paid-up share capital and net assets of insurance broker companies, both set at \$100,000, have not been adjusted in the past two decades. The IA finds it reasonable to increase the minimum paid-up share capital and net assets amounts to \$500,000 each. To allow time for existing insurance broker companies, especially small-sized companies, to effect the necessary capital injection to comply with the new requirements, the IA also proposes a transitional period of slightly more than four years for existing insurance broker companies as set out below –

Phased Increase in Minimum Capital and Net Assets	
- From commencement date to 31 December 2021	\$100,000
- From 1 January 2022 to 31 December 2023	\$300,000
- From 1 January 2024 onwards	\$500,000

Insurance broker companies which are not registered with CIB or PIBA as members immediately before the commencement date and wish to apply for a licence with the IA on or after the commencement date (hereafter called “new insurance broker companies”) will have to comply with the new requirements of \$500,000 upon the commencement date.

(b) Professional Indemnity Insurance (“PII”)

It is important for insurance broker companies to maintain adequate PII coverage to help them compensate their clients (i.e. policy holders) should instances of professional negligence occur, thereby enhancing the protection for policy holders. Against this background, it has long been a requirement for insurance broker companies to take out PII with a minimum indemnity limit.

The IA proposes to maintain the current minimum PII indemnity limit of \$3 million, whilst introducing a cap on the PII deductible up to 50% of net assets (or capital for new insurance broker company) to better protect the interests of policy holders. A deductible under the insurance broker company's PII policy is the amount of any claim against the insurance broker company which the insurance broker company has to bear itself before the insurer starts indemnifying the insurance broker company under the policy. The higher the amount of deductible, the larger the amount the insurance broker company has to bear. This may eventually lead to a greater adverse impact on the financial soundness of the insurance broker company in the event of a negligence claim.

The IA proposes a transitional period of slightly more than four years for existing insurance broker companies to adjust to the new requirement, i.e. existing insurance broker companies will have to comply with the new requirement with effect from 1 January 2024. New insurance broker companies will have to comply with the new requirement on the cap on PII deductible upon the commencement date.

(c) Client Account Reconciliation

Similar to the prevailing section 71 of the IO, section 71 of the IO as amended by section 79 of the Amendment Ordinance also requires a licensed insurance broker company to hold client monies separate from the company's monies and to use client monies relating to a client only for the purposes of that client. To enhance protection for client monies, the IA proposes to include in the Broker Rules a requirement for insurance broker companies to perform client account reconciliation on a monthly basis.

Client account reconciliation enables an insurance broker company to identify variances between its bank statements and its own books with regard to client monies and to take remedial actions if necessary. Currently, CIB, but not PIBA, requires its broker members to conduct client account reconciliation at least once a month.

The IA proposes a transitional period of six months for existing insurance broker companies to adjust to the new requirement, i.e. existing insurance broker companies will have to comply with the new requirement with effect from 23 March 2020. New insurance broker companies will have to comply with the new requirement on monthly reconciliation of client accounts upon the commencement date.

(d) Accounting Disclosures in Audited Financial Statements

Pursuant to the existing Guideline on Minimum Requirements and membership requirements of CIB and PIBA, an insurance broker company is required to submit audited financial statements to the SRO concerned. To promote consistency in financial reporting and to facilitate comparability of the financial statements of licensed insurance broker companies to be submitted to the IA, the IA proposes to require licensed insurance broker companies to disclose the following accounting information in the audited financial statements –

- (i) insurance brokerage income distinguishing between general business and long term business;

- (ii) balances of client accounts; and
- (iii) insurance premiums payable.

To allow time for existing insurance broker companies to adjust to the new disclosure requirement, the IA proposes that they will have to disclose the additional information in their audited financial statements starting from the financial year beginning on or after 1 January 2021. New insurance broker companies will have to disclose the additional information in their audited financial statements starting from the commencement date.

LEGISLATIVE TIMETABLE

13. The legislative timetable is as follows –

Publication in the Gazette	17 May 2019
Tabling before Legislative Council (“LegCo”)	22 May 2019

IMPLICATIONS OF THE PROPOSALS

14. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. The proposals will not affect the current binding effect of the IO. There are no financial or civil service implications to the Government, and no environmental, economic, productivity, family, gender and sustainability implications.

PUBLIC CONSULTATION

15. The IA consulted the public on the draft Number Rules and the draft Broker Rules from 31 October 2018 to 31 December 2018 and from 23 November 2018 to 23 January 2019 respectively. The IA has taken into account the feedback received during the consultation when finalizing the two Rules and issued the consultation conclusions on 29 April 2019. We issued an information paper to the LegCo Panel on Financial Affairs on 14 May 2019.

PUBLICITY

16. The IA issued a press release on 14 May 2019.

ENQUIRIES

17. Enquiries relating to this brief can be addressed to Ms Noel Tsang, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services), at 2810 2201.

Financial Services and the Treasury Bureau
Insurance Authority
15 May 2019

Insurance Companies (Amendment) Ordinance 2015 (Commencement) Notice
2019

1

**Insurance Companies (Amendment) Ordinance 2015
(Commencement) Notice 2019**

Under section 1(2) of the Insurance Companies (Amendment) Ordinance 2015 (12 of 2015), I appoint 23 September 2019 as the day on which the uncommenced provisions of the Ordinance come into operation.

Secretary for Financial Services and
the Treasury

2019

Insurance (Maximum Number of Authorized Insurers) Rules

(Made by the Insurance Authority under sections 64I(1) and 129(1) of the Insurance Ordinance (Cap. 41))

1. Commencement

These Rules come into operation on the day on which section 74 of the Insurance Companies (Amendment) Ordinance 2015 (12 of 2015) comes into operation.

2. Interpretation

(1) In these Rules—

licensed person (持牌人士) means—

- (a) a licensed insurance agency; or
- (b) a licensed individual insurance agent.

(2) A reference in rules 3 and 4 to an insurer or authorized insurer includes a member of Lloyd's.

(3) For the purposes of subrule (2), where a member of Lloyd's carries on long term or general business (as the case may be) in or from Hong Kong, that member is taken to be an insurer authorized to carry on that line of business.

3. Maximum number of authorized insurers

A person may be appointed as a licensed person in carrying on a regulated activity for a maximum of 4 authorized insurers, of which no more than 2 can be insurers authorized to carry on long term business.

4. General principles

- (1) Subject to rules 5 and 6, this rule applies to the counting of the number of authorized insurers for the purposes of rule 3.
- (2) A licensed person is taken to be appointed by 1 insurer authorized to carry on general business if the licensed person is appointed by an authorized insurer as its agent to carry on regulated activities in general business only.
- (3) A licensed person is taken to be appointed by 1 insurer authorized to carry on long term business if the licensed person is appointed by an authorized insurer as its agent to carry on regulated activities in long term business only.
- (4) A licensed person is taken to be appointed by—
 - (a) 1 insurer authorized to carry on general business; and
 - (b) 1 insurer authorized to carry on long term business, if the licensed person is appointed by an authorized insurer as its agent to carry on regulated activities in both general business and long term business.

5. Principles for appointments by authorized insurers in group of companies

- (1) When a licensed person is appointed as agent to carry on regulated activities by 2 or more authorized insurers which are in the same group of companies, this rule applies to the counting of the number of authorized insurers for the purposes of rule 3.
- (2) Where all the appointments of the licensed person as agent made by the insurers referred to in subrule (1) are limited to either general business or long term business, but not both, the licensed person is taken to be appointed by 1 insurer authorized to carry on the line of business for which that licensed person is appointed.

- (3) Where the appointments of the licensed person as agent made by the insurers referred to in subrule (1) are not limited to only general business or only long term business, the licensed person is taken to be appointed by 1 insurer authorized to carry on general business and 1 insurer authorized to carry on long term business.

6. Principles for appointments by members of Lloyd's

- (1) When a licensed person is appointed as agent to carry on regulated activities by 2 or more members of Lloyd's, irrespective of whether those members are in the same group of companies, this rule applies to the counting of the number of authorized insurers for the purposes of rule 3.
- (2) Where all the appointments of the licensed person as agent made by the members of Lloyd's referred to in subrule (1) are limited to either general business or long term business, but not both, the licensed person is taken to be appointed by 1 insurer authorized to carry on the line of business for which that licensed person is appointed.
- (3) Where the appointments of the licensed person as agent made by the members of Lloyd's referred to in subrule (1) are not limited to only general business or only long term business, the licensed person is taken to be appointed by 1 insurer authorized to carry on general business and 1 insurer authorized to carry on long term business.

Insurance Authority

2019

Explanatory Note

The main object of these Rules is to prescribe the maximum number of authorized insurers by which a person may be appointed as a licensed insurance agency or licensed individual insurance agent at any time for the purpose of section 64I of the Insurance Ordinance (Cap. 41).

2. Rule 1 provides for the commencement.
3. Rule 2 defines terms and expressions for the interpretation of the Rules.
4. Rule 3 prescribes the overall maximum number of authorized insurers, as well as the sub-cap on the maximum number of long term insurers, by which a licensed insurance agency or licensed individual insurance agent can be appointed.
5. Rules 4 to 6 establish the principles governing how to count the number of authorized insurers as prescribed in rule 3—
 - (a) rule 4 contains general counting principles;
 - (b) rule 5 contains special principles that apply to the counting of the number of authorized insurers where the appointments involve 2 or more authorized insurers which are in the same group of companies; and
 - (c) rule 6 contains special principles that apply to the counting of the number of authorized insurers where the appointments involve 2 or more members of Lloyd's.

Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules

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Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules

(Made by the Insurance Authority under sections 53F(4), 64T(2),
64ZA(4)(d), 64ZV(8)(e), 73(1) and 129(1) of the Insurance Ordinance
(Cap. 41))

1. Commencement

These Rules come into operation on the day on which section 74 of the Insurance Companies (Amendment) Ordinance 2015 (12 of 2015) comes into operation.

2. Interpretation

(1) In these Rules—

applicable accounting standards (適用的會計準則), in relation to a licensed insurance broker company, means—

(a) if the company is incorporated in Hong Kong, the accounting standards generally accepted in Hong Kong; and

(b) if the company is a non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap. 622), the accounting standards generally accepted in Hong Kong or in the jurisdiction of the place of incorporation of the company, as the company may elect;

contract of insurance (保險合約) includes a contract of reinsurance or retrocession;

deductible amount (自付額), in relation to a professional indemnity insurance policy maintained by a licensed insurance broker company under rule 5, means the amount of any loss or claim covered under the policy that the company

as the insured must itself bear in accordance with the policy's terms and conditions;

insurance brokerage income (保險經紀收入), in relation to a licensed insurance broker company, means the gross income derived from the business of carrying on regulated activities by the company;

insurance premiums payable (須付的保費), in relation to a licensed insurance broker company, means insurance premiums payable to insurers and reinsurers for contracts of insurance arranged by the company;

net assets (淨資產), in relation to a licensed insurance broker company, means the amount by which the aggregate of the company's assets exceeds the aggregate of its liabilities calculated in accordance with rule 4.

(2) In these Rules, a reference to an insurer includes a member of Lloyd's.

3. Share capital

A licensed insurance broker company must at all times maintain a paid-up share capital of not less than \$500,000.

4. Net assets

(1) A licensed insurance broker company must at all times maintain net assets of not less than \$500,000.

(2) The amount of net assets referred to in subrule (1) must be calculated in accordance with applicable accounting standards, and must—

(a) exclude intangible assets from the aggregate of the company's assets; and

(b) exclude from the aggregate of the company's liabilities, on-balance sheet liabilities arising from a lease agreement entered into by the licensed insurance broker company in respect of any premises, up to an amount capped by the maximum value of its intangible assets arising from the same lease agreement.

5. Professional indemnity insurance

(1) A licensed insurance broker company must maintain a professional indemnity insurance policy that provides coverage for claims made against the company for liabilities arising from breaches of duty in the course of carrying on its regulated activities. The professional indemnity insurance policy must have a limit of indemnity not less than the amount determined in accordance with subrule (2) or (3) (as the case may be) for any one claim and in any one policy period of 12 months.

(2) Subject to subrule (3), the limit of indemnity referred to in subrule (1) must not be less than the greater of the following—

(a) 2 times the aggregate amount of the licensed insurance broker company's insurance brokerage income in the 12 consecutive months immediately before the commencement date of the policy period under its professional indemnity insurance policy, up to a maximum of \$75,000,000; or

(b) \$3,000,000.

(3) In relation to a licensed insurance broker company which is in its first 12 months of operation as a licensed insurance broker company, the limit of indemnity referred to in subrule (1) must not be less than \$3,000,000.

- (4) The professional indemnity insurance policy referred to in subrule (1) must include a provision for at least one automatic reinstatement which, in the event of the limit of indemnity under the policy being reduced by losses or claims, operates to reinstate the limit of indemnity to an amount not less than the amount determined in accordance with subrule (2) or (3) (as the case may be).
- (5) Subject to subrule (6), the deductible amount under the professional indemnity insurance policy referred to in subrule (1) must not be more than 50% of the company's net assets as at the end of its financial year immediately before the commencement date of the policy period under the policy.
- (6) In relation to a licensed insurance broker company referred to in subrule (3), the deductible amount under the professional indemnity insurance policy referred to in subrule (1) must not be more than 50% of the company's paid-up share capital as at the commencement date of the policy period under the policy.

6. Client account

- (1) A licensed insurance broker company that receives or holds client monies must maintain at least one client account in accordance with subrule (2).
- (2) The client account referred to in subrule (1) must be an account maintained with an authorized institution in the name of the licensed insurance broker company in the title of which the word "client" appears.
- (3) A licensed insurance broker company must give written notice to the authorized institution with which the client account is maintained as referred to in subrule (1), stating that the client

- account is maintained by the company pursuant to section 71 of the Ordinance.
- (4) A licensed insurance broker company must keep proper records of the notice referred to in subrule (3).
 - (5) The monies specified in section 71(2) of the Ordinance, which a licensed insurance broker company is required to pay into a client account as soon as practicable after receiving them include—
 - (a) monies received by the company from or on behalf of a policy holder or potential policy holder as premium payable to an insurer under a contract of insurance arranged by the company;
 - (b) monies received by the company from an insurer, a reinsurer, an insurance intermediary or any other party for the purpose of or relating to the settlement of a claim under a contract of insurance;
 - (c) monies received by the company from or on behalf of a policy holder or potential policy holder for any purposes which are incidental to the carrying on of regulated activities by the company in relation to the policy holder or potential policy holder; and
 - (d) other monies arising from the ordinary transactions of its business of carrying on regulated activities as specified in subrule (9).
 - (6) A licensed insurance broker company may, for the purpose of complying with subrule (1), pay into a client account such monies as may be necessary for the opening or maintenance of the account and such monies are taken to be client monies for this purpose.

- (7) No monies other than monies described under subrules (5) and (6) may be paid into a client account maintained by a licensed insurance broker company.
- (8) A licensed insurance broker company may only make the following withdrawals from a client account—
 - (a) monies required to be paid to an insurer, a reinsurer or an insurance intermediary as premium under a contract of insurance arranged by the company;
 - (b) monies required to be paid to a policy holder, potential policy holder, a claimant or any other party who is entitled to receive the monies for the purpose of or relating to the settlement of a claim under a contract of insurance;
 - (c) monies drawn in accordance with written authority of a policy holder or potential policy holder;
 - (d) monies required to be paid by or on behalf of a policy holder or potential policy holder for any purposes which are incidental to the carrying on of regulated activities by the company in relation to the policy holder or potential policy holder;
 - (e) interest earned on monies in the client account in accordance with section 71(5) of the Ordinance;
 - (f) monies which are paid into the client account by mistake or accident and any interest earned on those monies; and
 - (g) other monies arising from the ordinary transactions of its business of carrying on regulated activities specified in subrule (9).
- (9) The other monies arising from the ordinary transactions of the licensed insurance broker company's business of carrying on

- regulated activities referred to in subrules (5)(d) and (8)(g) are—
 - (a) premiums, renewal premiums, additional premiums and return premiums of all kinds;
 - (b) claims and other monies due under contracts of insurance;
 - (c) refunds to policy holders;
 - (d) policy loans and associated interests;
 - (e) fees, charges and levies relating to contracts of insurance; and
 - (f) premium discounts, commissions and brokerage.
- (10) Subrule (7) does not apply to monies which are paid by mistake or accident into a client account provided that the licensed insurance broker company takes remedial action promptly on discovery of the payment which was made by mistake or accident.
- (11) A licensed insurance broker company which holds or receives client monies must—
 - (a) at least once a calendar month compare the total of the ledger balances of client monies with the total of—
 - (i) the balances shown on the bank statements and passbooks (after allowing for all unrepresented items) of all client accounts; and
 - (ii) any client monies held by the company that have not been deposited into a client account; and
 - (b) as at the same date when a comparison is made pursuant to paragraph (a), prepare a reconciliation statement, which must show the cause of the difference, if any.

7. Keeping of proper books and accounts

- (1) A licensed insurance broker company must, in relation to its business which constitutes the carrying on of regulated activities—
 - (a) keep, where applicable, such accounting and other records (including records relating to the assets or affairs of the company's clients) as are sufficient to—
 - (i) explain, and reflect the financial position and operation of, such business;
 - (ii) enable financial statements that give a true and fair view of its financial position and financial performance to be prepared from time to time;
 - (iii) account for all client monies that it receives or holds; and
 - (iv) demonstrate—
 - (A) compliance by it with these Rules; and
 - (B) that there is no contravention of section 71(1), (3), (4), (5) and (6) of the Ordinance;
 - (b) keep those records in such manner as will enable an audit to be conveniently and properly carried out; and
 - (c) make entries in those records in accordance with applicable accounting standards.
- (2) A licensed insurance broker company must keep all records in writing in the Chinese or English language or in such a manner as to enable them to be readily accessible and readily converted into written form in the Chinese or English language.

- (3) A licensed insurance broker company must retain the records that are required to be kept under these Rules for at least 7 years.

8. Audited financial statements

- (1) A licensed insurance broker company must prepare the financial statements to be provided to the Authority under section 73(1) of the Ordinance in accordance with applicable accounting standards.
- (2) The financial statements provided by a licensed insurance broker company under section 73(1) of the Ordinance in relation to a financial year must include the company's—
 - (a) insurance brokerage income for the financial year distinguishing between general business and long term business;
 - (b) aggregate balances of cash held in its client accounts as at the end of the financial year; and
 - (c) insurance premiums payable as at the end of the financial year.
- (3) Any document (except an auditor's report) provided by a licensed insurance broker company under section 73(1) of the Ordinance must be—
 - (a) approved by the directors of the company; and
 - (b) signed—
 - (i) by 2 directors of the company on its directors' behalf; or
 - (ii) in the case of the company having only one director, by the director.

9. Auditor's report

- (1) The auditor's report on the financial statements provided by a licensed insurance broker company under section 73(1)(d) of the Ordinance in relation to a financial year must contain statements stating whether the financial statements, in the auditor's opinion, give a true and fair view of—
 - (a) the financial position of the company as at the end of the financial year; and
 - (b) the financial performance of the company for the financial year.
- (2) The auditor's report provided by a licensed insurance broker company under section 73(1)(e) of the Ordinance in relation to a financial year must contain statements stating whether, in the auditor's opinion, the company has continued to comply with the requirements under these Rules and the relevant provisions of the Ordinance in relation to—
 - (a) the capital and net assets of the company;
 - (b) the professional indemnity insurance taken out by the company;
 - (c) the keeping of separate client accounts by the company; and
 - (d) the keeping of proper books and accounts by the company,as at the end of the financial year and 2 such other dates in the financial year as the auditor may elect, provided that the intervening period between those 2 dates must not be shorter than 3 months.

10. Savings and transitional arrangements

The Schedule provides for the savings and transitional arrangements that relate to these Rules.

Schedule

[r. 10]

Savings and Transitional Arrangements

1. Interpretation

In this Schedule—

approved broker body (認可經紀團體) has the meaning given by Schedule 11 to the Ordinance;

commencement date (生效日期) has the meaning given by section 64O(7) of the Ordinance;

specified insurance broker company (指明保險經紀公司) means a company which was immediately before the commencement date registered with an approved broker body as a member, and regarded as having been granted an insurance broker company licence under section 66 of Schedule 11 to the Ordinance on the commencement date.

2. Share capital and net assets

For the period from the commencement date to 31 December 2023, the amount of paid-up share capital and net assets which a specified insurance broker company must maintain at all times pursuant to rules 3 and 4(1) respectively are—

- (a) for the period that begins on the commencement date and ends on 31 December 2021, not less than \$100,000; and
- (b) for the period that begins on 1 January 2022 and ends on 31 December 2023, not less than \$300,000.

3. Professional indemnity insurance

Rule 5(5) does not apply to a specified insurance broker company for the period that begins on the commencement date and ends on 31 December 2023.

4. Client monies reconciliation

Rule 6(11) does not apply to a specified insurance broker company for 6 months beginning on the commencement date.

5. Audited financial statements

Rule 8(2) does not apply to the audited financial statements of a specified insurance broker company for a financial year beginning before 1 January 2021.

Insurance Authority

2019

Explanatory Note

The main object of these Rules is, for the purposes of sections 53F(4), 64T(2), 64ZA(4)(d), 64ZV(8)(e), 73(1) and 129(1) of the Insurance Ordinance (Cap. 41), to prescribe the financial and other requirements for licensed insurance broker companies in relation to (a) capital and net assets; (b) professional indemnity insurance; (c) keeping of separate client accounts; (d) keeping of proper books and accounts; and (e) submission of audit and related information. These Rules are made following public consultation and form part of the new statutory licensing regime for insurance intermediaries. These Rules modify the relevant requirements in the Guideline on Minimum Requirements for Insurance Brokers issued by the Insurance Authority and the membership requirements issued by the 2 approved bodies of insurance brokers (i.e. The Hong Kong Confederation of Insurance Brokers and Professional Insurance Brokers Association), which were applicable immediately prior to the commencement of these Rules.

2. Rule 1 provides for commencement.
3. Rule 2 defines terms and expressions for the interpretation of these Rules.
4. Rule 3 prescribes the minimum amount of paid-up share capital required of a licensed insurance broker company.
5. Rule 4 prescribes the minimum amount of net assets required of a licensed insurance broker company.
6. Rule 5 prescribes the requirements for a licensed insurance broker company to maintain professional indemnity insurance policy and related matters, such as minimum limit of indemnity, maximum deductible amount and automatic reinstatement.

7. Rule 6 prescribes requirements relating to the handling of client monies and the maintenance of client accounts. Such requirements include restrictions governing the payment and withdrawal of monies into and out of a client account, the requirement to give written notice to the authorized institution where the client account is maintained stating that the client account is maintained pursuant to section 71 of the Insurance Ordinance (Cap. 41), and a requirement for the licensed insurance broker company to conduct monthly accounting reconciliation.
8. Rule 7 prescribes the records that a licensed insurance broker company is required to keep, the manner in which they are to be kept and the retention period of the records.
9. Rule 8 prescribes additional information that a licensed insurance broker company must provide in the audited financial statements under section 73 of the Insurance Ordinance (Cap. 41).
10. Rule 9 requires that auditors' reports submitted by a licensed insurance broker company under section 73(1)(d) and (e) of the Insurance Ordinance (Cap. 41) must contain statements stating the auditor's opinion on specified matters.
11. Rule 10 and the Schedule provide for the savings and transitional arrangements to these Rules.