

DISCUSSION DRAFT

Compendium of existing conduct standards published by the three Self-Regulatory Organizations with proposed additions in the light of new statutory conduct requirements

[Note for reader:

- *This is a discussion draft prepared by the Financial Services and the Treasury Bureau / Office of the Commissioner of Insurance to invite views of the IIA Working Group. This does not pre-empt the decision of the independent Insurance Authority.*
- *The document, which aims to facilitate future discussions between the IIA with the industry, **stock-takes** existing conduct requirements under guidelines issued by OCI, HKFI and the three SROs (relevant extracts of these guidelines are at Annex). There will thus be a certain amount of duplications at this stage. New provisions are proposed in light of new statutory conduct requirements or to incorporate prevailing international standards.*
- *As suggested by Members, provisions applicable to brokers and agents respectively have been separated as appropriate. Provisions which are applicable to both groups are currently combined for ease of reading. The IIA can decide in the future whether to have two completely separate documents.*
- *Members are also invited to comment on how specific areas of specialties*

such as professional brokerage and reinsurance should be covered by the guidelines.]

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[Note: For the current version, elaborations on items 1, 4 and 5 are provided. Elaborations on other items will be provided in a later version.]

Introduction

Section 90 of the Ordinance stipulates that, when carrying on a regulated activity, a licensed insurance intermediary -

- (a) must act honestly, fairly, in the best interests of the policy holder concerned or the potential policy holder concerned, and with integrity;
- (b) must exercise a level of care, skill and diligence that may reasonably be expected of a prudent person who is carrying on the regulated activity;
- (c) may advise only on matters for which the intermediary is competent to advise;
- (d) must have regard to the particular circumstances of the policy holder or the potential policy holder that are necessary for ensuring that the regulated activity is appropriate to the policy holder or the potential policy holder;
- (e) must make the disclosure of information to the policy holder or the potential policy holder that is necessary for the policy holder or the potential policy holder to be sufficiently informed for the purpose of making any material decision;
- (f) must use its best endeavours to avoid a conflict between the interests of the intermediary and the interests of the policy holder or the potential policy holder;
- (g) must disclose any conflict mentioned in paragraph (f) to the policy holder or the potential policy holder;
- (h) must ensure that the assets of the policy holder or the potential policy holder are promptly and properly accounted for; and
- (i) must comply with other requirements that are prescribed by rules made under sections 94 and 129.

The Guidelines on Statutory Conduct Requirements for Licensed Insurance Intermediaries (“Guidelines”), issued under section 133 of the Insurance Ordinance (Chapter 41)(“the Ordinance”), provide guidance in respect of the minimum standards of conduct expected of licensed insurance intermediaries in conducting regulated activities. In particular, they provide guidance about the circumstances in which the Insurance Authority (“the Authority”) will be satisfied that a licensed insurance intermediary has, or has not, complied with a performance requirement under section 90 of the Ordinance. Whilst the Guidelines are intended to assist licensed insurance intermediaries in understanding how to comply with the performance requirements, they are not intended to be an exhaustive description of how they should comply. Acts or omissions not mentioned in the Guidelines may also constitute a breach of the

performance requirements.

The Guidelines do not have the force of law. They should not be interpreted in a way that would override the provision of any law.

The Guidelines are complementary to, and do not replace, any legislative provisions applicable to, or codes or guidelines issued by the Authority in respect of licensed insurance intermediaries.

A failure on the part of a licensed insurance intermediary to comply with the provisions set out in the Guidelines:

- does not by itself render the intermediary liable to any judicial or other proceedings, but in any proceedings under the Ordinance before a court, the Guidelines are admissible in evidence, and if a provision in the Guidelines appears to the court to be relevant to a question arising in the proceedings, the court must, in determining the question, take into account any compliance or non-compliance of the provision; [\[Amended Cap. 41. S.133\]](#)
- may cause the Authority to consider whether the intermediary is a fit and proper person to remain licensed under the Ordinance;
- may cause the Authority to consider whether such failure constitutes misconduct under section 80 of the Ordinance.

If the Authority has information which suggests that a licensed insurance intermediary is or was guilty of misconduct, or is or was not a fit and proper person, it may conduct an investigation under section 64ZZH(1)(d) of the Ordinance.

In this document, the word “policyholders” include “potential policyholders” and “clients / potential clients”.

ReferencesAbbreviation Reference Document

Australia RG	Australian Securities and Investments Commission, Regulatory Guides
CIB	Code of Conduct, Hong Kong Confederation of Insurance Brokers
CIB Membership Regulations	Membership Regulations, Hong Kong Confederation of Insurance Brokers
G20	G20 High-level Principles on Financial Consumer Protection, Organisation for Economic Cooperation and Development
Guernsey	Code of Conduct for Financial Advisers, Guernsey Financial Services Commission
HKFI	The Code of Practice for the Administration for Insurance Agents, the Hong Kong Federation of Insurers
HKFI ILAS	Updated Requirements Relating to the Sale of Investment Linked Assurance Scheme (“ILAS”) to Enhance Customer Protection, the Hong Kong Federation of Insurers
IARB Guidelines on Misconduct	Guidelines on Misconduct, Insurance Agents Registration Board
ICM	Code of Conduct, Insurance Council of Manitoba, Canada
ICP	Insurance Core Principles, International Association of Insurance Supervisors
IIQAS	Insurance Intermediaries Quality Assurance Scheme Study Notes for Paper 1

MAS	Guidelines on Standards of Conduct for Financial Advisers and Representatives, Monetary Authority of Singapore
MPFA	Guidelines on Conduct Requirements for Registered Intermediaries, Mandatory Provident Fund Schemes Authority
OCI	Minimum Requirements for Insurance Brokers, Office of the Commissioner of Insurance
PIBA	Membership Regulations, Professional Insurance Brokers Association
UK ICOBS	Insurance Conduct of Business Sourcebook, Financial Conduct Authority, UK

Part A Overarching Principles

The overarching principles in connection with the statutory conduct requirements for licensed insurance intermediaries stipulated under section 90 of the Ordinance are set out below. The principles are fundamental elements of effective conduct regulation of insurance intermediaries for the purpose of protection of policy holders' interest.

1. Integrity

A licensee must be trustworthy and act honestly, fairly and with integrity in order to maintain good faith and to preserve public trust in the insurance industry. A licensee should not engage in any conduct involving fraud or dishonesty, or commit any act that reflects adversely on its/his honesty or trustworthiness or that compromises its/his integrity. [\[MAS clauses 1.1 & 1.2\]](#) [\[ICM P.3 item \(a\)\]](#)

2. Best Interests of Policyholders

A licensee should have, as an objective, to act in the best interests of policyholders and be responsible for upholding policyholder protection. [\[G20 Principle 6\]](#)

3. Care, Skill and Diligence

A licensee must act with due care, skill and diligence when carrying on regulated activities.

4. Competence

A licensee must possess appropriate levels of professional knowledge and experience and only carry on regulated activities in respect of which it or he has the required competence.

5. Fair Treatment of Policyholders

All policyholders should be treated equitably, honestly and fairly at all stages of their relationship with a licensee. A licensee must adopt fair treatment of policyholders as an integral part of its or his business culture. Special attention should be dedicated to the needs of vulnerable groups. [\[G20 Principle 3\]](#)

6. Information Disclosure

A licensee must provide accurate and adequate information to enable its

or his policyholders to make informed decisions. This includes the fundamental benefits, risks and terms of the product. Appropriate information should be provided at all stages of the relationship with the policyholder. [\[G20 Principle 4\]](#)

7. Suitability

A licensee must ensure that advice given is suitable taking into account the circumstances of the policyholder. The provision of advice should be as objective as possible and should in general be based on the policyholder's profile considering the complexity of the product, the risks associated with it as well as the customer's financial objectives, knowledge, capabilities and experience. [\[G20 Principle 4\]](#)

8. Managing Conflicts of Interest

A licensee must ensure that any actual or potential conflicts of interest are properly managed. When such conflicts cannot be avoided, a licensee should ensure proper disclosure. [\[G20 Principle 6\]](#)

9. Safeguarding Policyholder Assets

A licensee must have relevant information, sufficient control and safeguards with a high degree of certainty in place to protect policyholders' assets, including against fraud, misappropriation or other misuses. [\[G20 Principle 7\]](#)

Part B

1. ACTING HONESTLY, FAIRLY, IN THE BEST INTERESTS OF THE POLICY HOLDER CONCERNED OR THE POTENTIAL POLICY HOLDER CONCERNED, AND WITH INTEGRITY

1.1 Statutory requirement

Section 90(a) –

When carrying on a regulated activity, a licensed insurance intermediary must act honestly, fairly, in the best interests of the policy holder concerned or the potential policy holder concerned, and with integrity.

1.2 General conduct requirements

Utmost good faith and integrity

- (a) A licensee shall at all times conduct their business with utmost good faith and integrity, and provide advice objectively and independently. [CIB clauses a & 1; PIBA clause 3(a); HKFI clauses 74 & 76; OCI clause IV(A)(b)]
- (b) A licensee shall be of good character and reputation. [OCI clause VI(A)(a)]
- (c) A licensee shall not ask the policyholder to sign a blank or incomplete application form and any alternations to an application form must be initialed by the policyholder. [IARB Guidelines on Misconduct]

Accurate representations

- [New] (d) A licensee shall not make any untrue representations or concealing material facts from a policyholder, such as failing to advise a policyholder that the licensee is unable to provide totally for the policyholder's required insurance needs. [ICM P.3 item (b)]
- (e) Statements made by or on behalf of licensees when advertising shall not be misleading or extravagant. [CIB clause c; PIBA clause 3(e)]

- (f) A licensee shall ensure that advertisements distinguish between contractual and non-contractual benefits. [\[CIB clause 10\]](#)
- (g) A licensee shall not make inaccurate or misleading statements about any principals or insurance policies, or any other intermediaries. [\[HKFI clause 76\(i\); MFPA clause III.2\]](#)
- (h) A licensee shall, on request, explain to a policyholder the differences in the principal types of insurance and explain the terms and exclusions therein. [\[CIB clause 3\]](#)
- (i) A licensee shall explain the cover afforded by each policy recommended to ensure that the potential policyholder understands what he is buying. [\[HKFI clause 76\(f\)\]](#)
- (j) A licensee shall explain the specific differences to which he is referred when making comparisons with other types of insurance policies. [\[HKFI clauses 76\(g\) & 80\(g\)\]](#)

Best interests of the policyholder

- (k) An insurance agent acts on behalf of an insurer to transact insurance while an insurance broker acts on behalf of another person who is not an insurer, generally the insured. Despite their different capacities which affect their duties towards policyholders, an insurance agent or insurance broker should exert no undue influence on a policyholder or a potential policyholder because he should bear in mind his role as an advisor, not a persuader or enforcer. [\[IIQAS para 7.1\]](#)
- [New]** (l) When assessing whether a licensee has complied with the best interest requirements, the Authority will consider whether a reasonable licensee would believe that the policyholder is likely to be in a better position if the policyholder follows the advice given by the licensee. [\[Australia RG 175.225\]](#) The best interest requirements vary depending on the circumstances in which the advice is provided to the policyholder including, but not limited to, the following:

- the insurance products the licensee can offer (insurance agent vs insurance broker);
- the type and complexity of the insurance products;
- capability of the policyholder to understand the licensee’s advice;
- degree of the policyholder’s reliance on the licensee’s advice;
and
- impact of the act or omission of the licensee on the policyholder.

[ICP 19.0.3 – “Requirements for the conduct of insurance business may differ depending on the nature of the customer with whom an insurer interacts and the type of insurance provided. The scope of requirements for conduct of insurance business should reflect the combined probability and impact of the risk of unfair treatment of customers, taking into account the nature of the customer and the type of insurance provided.”]

(m) The best interests requirements cover the following aspects:

- provision of information before, during and after the point of sale;

[OCI section IV(E)(a) – “An insurance broker shall make adequate and accurate disclosure of relevant material information in dealing with his policyholder.”; OCI section IV(B)(g).

HKFI clauses 76(f) & 80(f) – “a Registered Person shall explain the cover afforded by each policy recommended to ensure that the potential policy holder understands what he is buying.”]

- understanding the policyholder’s circumstances and making reasonable enquiries about the policyholder’s circumstances;

[OCI section IV(B)(a); HKFI clause 80(d); ICP 19.11.6; Australia RG 175.280]

- understanding the insurance products offered;
- giving of advice based on objective judgments;

[CIB clause 5; PIBA clause 3(a); IARB Guidelines on Misconduct]

- remuneration; and
- actual and potential conflict of interests.

(n) A licensee shall do everything possible to satisfy the insurance requirements of their policyholders and shall place the interests of those policyholders before all other considerations. [CIB clause b; PIBA clause 3(b); OCI clause (IV)(C)(a)]

(o) A licensee shall make every reasonable effort to ensure that the policy proposed is suitable to the needs and resources of potential policyholders as disclosed to the licensee. [HKFI clause 80(d)]

(p) A licensee shall have proper regard for the wishes of a policyholder who seeks to terminate business. [CIB clause 7]

[New] (q) A licensee shall not discourage policyholders from making legitimate insurance claims, or delay them from being presented, in a manner which may prejudice the policyholder's best interest or for reasons which may serve the interests of the licensee. [ICM P.4 item (f)]

(r) A licensee shall not be engaged in insurance twisting. [OCI clause VI(A)(g)] A licensee shall not make inaccurate or misleading statements or comparisons to induce an insured to replace existing long term insurance with other long term insurance to the policyholder's disadvantage. [HKFI clause 80(k)] In the case of replacement, policyholders should be made fully aware of the estimated cost of replacing an existing policy. [IARB Guidelines on Misconduct] A licensee must not advise policyholder to replace, convert, cancel, surrender or allow to lapse any long term policy unless the intermediary can demonstrate that such action is in the best interests of the policyholder. [Guernsey clause 5.1(a)]

- [New] (s) A licensee must afford the policyholder reasonable time to consider the licensee's recommendation prior to the policyholder making a decision to accept the recommendation. [Guernsey clause 5.3]

Confidentiality of policyholder information

- (t) A licensee shall ensure that any information received from policyholders shall not be used or disclosed except in the normal course of negotiating, maintaining or renewing a contract of insurance for that policyholder or unless the consent of the said policyholder has been obtained or the information is required by a court of competent jurisdiction. [CIB clause 8; PIBA clause 3(d); HKFI clause 76(h); OCI clause IV(D)]

1.3 Specific conduct requirements for licensed insurance agents

- (a) A licensed insurance agent shall not act as an licensed insurance broker, nor as the Responsible Officer or Technical Representative of a licensed insurance broker. [HKFI clause 83]

1.4 Specific conduct requirements for licensed insurance brokers

- (a) A licensee should not describe himself as an insurer or agent of an insurer. [OCI clause IV(A)(e)]
- (b) A licensee should use sufficient number of insurers to satisfy policyholders' requirements without unduly limiting the policyholder's choice. [CIB clause 4, PIBA clause 3(c); OCI clause IV(C)(b)]
- (c) A licensee should use his skills objectively in the choice of an insurer or insurers in the best interests of a policyholder and shall not be unreasonably dependent on any particular insurer in transacting broking business. [CIB clause 5]
- (d) A licensee shall ensure that advertisements are not restricted to the policies of one insurer except where reasons are given and the insurer is named. [CIB clause 11]

Proportionate charges

- (e) A licensee shall not charge or accept any fee that is disproportionate to the service rendered to a policyholder. [\[PIBA clause 3\(g\)\]](#)

1.5 Illustrative examples on best interests obligations

[Note: grateful for inputs from members of IIA Working Group's on illustrative examples for inclusion in Version 2 of the draft Guidelines.]

4. HAVING REGARD TO POLICYHOLDER'S PARTICULARS AS IS NECESSARY

4.1 Statutory requirement

Section 90(d)

When carrying on a regulated activity, a licensed insurance intermediary must have regard to the particular circumstances of the policy holder or the potential policy holder that are necessary for ensuring that the regulated activity is appropriate to the policy holder or the potential policy holder.

4.2 General conduct requirements

[New] (a) Depending on the nature of the transaction and based on information primarily provided by customers, a licensee should assess the related financial capabilities, situation and needs of their customers before providing them with a product, advice or service. [\[G20 Principle 6\]](#)

(b) A licensee shall take reasonable steps to conduct “Know You Policyholder” (KYC) procedures and suitability assessments to –

- i. establish the true and full identity of the policyholder (e.g. proper policyholder identification and certification procedures) and to keep proper records that the policyholder identification procedures are followed satisfactorily; and [\[CIB Membership Regulations 14.7.1\]](#)
- ii. understand the policyholder's insurance and financial needs and priorities. [\[OCI clause IV\(B\)\(a\); ICP 19.6.2\]](#)

[Note: For additional requirements for KYC and suitability assessments, please refer to the relevant guidelines [to be] issued by the Authority.]
[\[Details are set out in OCI's existing guidance notes and existing guidelines issued by SROs.\]](#)

[New] (c) A licensee shall not take improper advantage of a policyholder's inexperience, lack of education, youth, lack of sophistication, unbusinesslike habits or ill health. [\[ICM P.3 item \(c\)\]](#)

- [New] (d) A licensee shall ensure that its recommendations are suitable for the policyholder, taking into account the information obtained from the policyholder. It should ensure that the recommendations are based on thorough analysis and take into account alternative insurance options. [\[MAS clause 7.2\]](#)
- [New] (e) A licensee shall explain to the policyholder the basis for its recommendation and why the insurance product recommended is suitable for the policyholder. [\[MAS clause 7.3\]](#)
- (f) A licensee shall not use any rebate of commissions as the basis for its recommendation. *[Note: Requirements about rebates, gifts and other financial incentives will be set out in separate guidelines [to be] issued by the Authority.]* [\[Existing requirements of SROs; MAS clause 7.4\]](#)
- (g) A licensee must explore insurance options and disclose available alternatives to the policyholder. [\[Existing guidance notes issued by OCI\]](#)
- [New] (h) A licensee must explain the risks involved in premium financing, if recommended.

5. INFORMATION DISCLOSURE

5.1 Statutory requirement

Section 90(e)

When carrying on a regulated activity, a licensed insurance intermediary must make the disclosure of information to the policy holder or the potential policy holder that is necessary for the policy holder or the potential policy holder to be sufficiently informed for the purpose of making any material decision.

5.2 General conduct requirements

Clear, accurate and relevant information

(a) A licensee must make adequate disclosure of clear, accurate and relevant information to the policyholder that is necessary for the policyholder to be sufficiently informed for the purpose of making any material decision and must not conceal any material facts. A licensee must ensure the information provided is fair and not misleading and must not withhold from the policyholder any written documentation relating to the insurance product. [OCI clause IV(E)(a), clause IV(A)(d); MPFA clause III.31; UK ICOBS 2.2.2R; ICP 19.4.1; Guernsey clause 5.1(d)]

[New]

(b) Information should be provided at all stages of the relationship with the customer. [G20 Principle 4]

Information about the licensee

(c) A licensee shall disclose his registration number if so requested and identify his registration number on his business cards if they are distributed. [HKFI clause 76(c); OCI clause IV(E)(e)]

(d) A licensee shall ensure that advertisements shall disclose the company's identity, occupation and purpose. [CIB clause 12]

(e) A licensee should adequately disclose its or his capacity where the policyholder is referred by another person to the licensee. [Existing]

[guidance note issued by OCI](#)

Information about insurance products

- (f) A licensee must explain the cover afforded by the insurance product, i.e. major policy terms and conditions including exclusions, and the policyholder's rights and obligations in respect of premium payment term, renewability and premium refund. [\[OCI clause IV\(B\)\(g\); HKFI clauses 76\(f\) & 80\(f\)\]](#)
- [New]** (g) A licensee has an obligation to inform his policyholders at all times about all aspects of the insurance products they have purchased including any changes affecting a policy which occur during the policy term. [\[ICM P.7\]](#)
- [New]** (h) A licensee should provide to his policyholders information materials that would assist the policyholder in understanding the insurance products relevant to a material decision being made. [\[MPFA clause III.37\]](#)
- (i) A licensee must not make comparisons of insurance products without clarifying the different product features. [\[PIBA clause 5\(c\); HKFI clauses 76\(g\) & 80\(g\) – “A Registered Person shall explain the specific differences to which he is referring when making comparisons with other types of policies \(or forms of investment\).”\]](#)

[Note: For additional disclosure requirements for long term policies, please refer to the relevant guidelines [to be] issued by the Authority.]

Information about fees and charges

- (j) A licensee shall not impose any charge in addition to the policy premium without disclosing the amount and purpose of such charge to the policyholder before the binding of the policy. [\[HKFI clause 76\(j\)\]](#)

[Note: Requirements about remuneration disclosure are to be set out in separate guidelines [to be] issued by the Authority after taking into account the existing disclosure requirements prescribed in the

Membership Regulations of CIB and PIBA and the requirements for the IFS-ILAS.]

Information about the Code of Conduct

- (k) A licensee shall advise policyholders that the Code of Conduct is available and display a notice to this effect in a prominent position in its office/offices. [\[CIB clause 13\]](#)

5.3 Specific conduct requirements for licensed insurance agents

- (a) A licensee shall identify himself as a licensee acting on behalf of the principal(s) or insurance agent he represents prior to discussing insurance policies with any person. [\[HKFI clause 76\(b\)\]](#)

5.4 Specific conduct requirements for licensed insurance brokers

- (a) A licensee shall ensure that any director or employee who may act for more than one broking firm shall identify to his policyholder which broking firm he is representing in relation to each particular insurance intermediaries. [\[CIB clause 14; OCI clause IV\(E\)\(d\)\]](#)
- (b) A licensee shall, if required, inform a policyholder of all insurers with whom a contract of insurance is placed and disclose any special association it/he may have with any insurer whom it/he is recommending. [\[CIB clause 6\]](#)
- (c) In case a licensee refers its/his policyholder to an overseas insurer not authorised in Hong Kong, the licensee shall advise its/his policyholders of the unauthorised status of the insurer and the reasons for recommending such insurer. [\[PIBA clause 3\(i\); OCI clause IV\(E\)\(b\)\]](#)
- [New]** (d) If a licensee can offer only one company's quote to a prospective policyholder, there is a duty upon the licensee to make this limitation known before accepting and before placing any business on the policyholder's behalf. [\[ICM P.7\]](#)

Conduct of Registered Persons for General Insurance Business and Restricted Scope Travel Business

74. A Registered Person shall at all times conduct business in good faith and with integrity.
75. In the event of a complaint concerning the conduct of a Registered Person, the Registered Person shall co-operate with the IARB and the Principal or insurance agent concerned to establish the facts. The complainant should be informed that he should in the first instance refer the complaint to the relevant Principal or insurance agent. If the complainant is still dissatisfied he may refer the matter to the IARB.
76. A Registered Person shall:
- (a) ensure that he is registered with the IARB in respect of the Line of Insurance Business to be engaged in prior to conducting such business;
 - (b) identify himself as a Registered Person acting on behalf of the Principal(s) or insurance agent he represents prior to discussing insurance policies with any person;
 - (c) disclose his registration number if so requested and identify his registration number on his business cards if they are distributed;
 - (d) display his name and registration number on the name plate put in front of the service desk or counter if he is registered as engaging in the Restricted Scope Travel Business and provides face-to-face insurance service at service desk or counter;
 - (e) give advice only on those matters in which he is competent to deal with or otherwise seek advice from his Principal(s) or appointing insurance agent when necessary;
 - (f) explain the cover afforded by each policy recommended to ensure that the potential policy holder understands what he is buying;
 - (g) explain the specific differences to which he is referring when making comparisons with other types of policies;
 - (h) treat all information supplied by a potential policy holder as confidential and disclose such information only to the Principal(s) or appointing insurance agent to which the business is being offered, and otherwise comply at all times with the provisions of the *Personal Data (Privacy) Ordinance* (Chapter 486 of the *Laws of Hong Kong*) when dealing with personal data provided by a potential or current policy holder;
 - (i) not make inaccurate or misleading statements about any Principals or appointing insurance agent or their policies, or any other intermediaries;
 - (j) not impose any charge in addition to the policy premium without disclosing the amount and purpose of such charge to the policy holder before the binding of the policy; and
 - (k) not pay any part of any commission or discount allowed to him to any director, partner or employee of any insured as an inducement to place the business with the Principal or appointing insurance agent, nor assist any other Registered Person to make such a payment, unless prior agreement and approval of the payment by the insured is received in writing.

77. In assisting a potential policy holder to complete the proposal or application form, a Registered Person shall:

- (a) not influence the potential policy holder, and make it clear that the answers or statements given are the latter's own responsibility; and
- (b) explain the consequences of fraud, non-disclosure and inaccuracies to the potential policy holder and draw his attention to the relevant statements in the proposal form.

Conduct of Registered Persons for Long Term Insurance Business

78. A Registered Person shall at all times conduct business in good faith and with integrity.

79. In the event of a complaint concerning the conduct of a Registered Person, the Registered Person shall co-operate with the IARB and the Principal or insurance agent concerned to establish the facts. The complainant should be informed that he should in the first instance refer the complaint to the relevant Principal or insurance agent. If the complainant is still dissatisfied he may refer the matter to the IARB.

80. A Registered Person shall:

- (a) ensure that he is registered with the IARB in respect of the Line of Insurance Business to be engaged in prior to conducting such business;
- (b) identify himself as a Registered Person acting on behalf of the Principal(s) or insurance agent he represents prior to discussing insurance policies with any person;
- (c) disclose his registration number if so requested and identify his registration number on his business cards if they are distributed;
- (d) make every reasonable effort to ensure that the policy proposed is suitable to the needs and resources of the potential policy holder as disclosed to the Registered Person;
- (e) give advice only on those matters in which he is competent to deal with or otherwise seek advice from his Principal(s) or appointing insurance agent when necessary;
- (f) explain the cover afforded by each policy recommended to ensure that the potential policy holder understands what he is buying;
- (g) explain the specific differences to which he is referring when making comparisons with other types of policies or forms of investment;
- (h) treat all information supplied by a potential policy holder as confidential and disclose such information only to the Principal(s) or appointing insurance agent to which the business is being offered, and otherwise comply at all times with the provisions of the *Personal Data (Privacy) Ordinance* (Chapter 486 of the *Laws of Hong Kong*) when dealing with personal data provided by a potential or current policy holder;
- (i) not make inaccurate or misleading statements about any Principals or appointing insurance agent or their policies, or any other intermediaries;
- (j) not impose any charge in addition to the policy premium without disclosing the amount and purpose of such charge to the policy holder before the binding of the policy;
- (k) not make inaccurate or misleading statements or comparisons to induce an insured to replace existing long term insurance with other long term insurance to the insured's disadvantage;



- (l) not pay or offer to pay any rebate of premium, commission or other incentive not specified in the policy as an inducement to any potential long term insurance policy holder unless specifically authorized by a Principal; and
 - (m) comply with the requirements as specified in the *MPF Code* where he is engaged in selling or advising on Mandatory Provident Fund schemes or their constituent or underlying funds.
81. In assisting a potential policy holder to complete the proposal or application form, a Registered Person shall:
- (a) not influence the potential policy holder, and make it clear that the answers or statements given are the latter's own responsibility; and
 - (b) explain the consequences of fraud, non-disclosure and inaccuracies to the potential policy holder and draw his attention to the relevant statements in the proposal form.
82. When selling policies related to Long Term Business, a Registered Person shall:
- (a) explain the long term nature of the policy and the consequences of early discontinuance and/or surrender;
 - (b) where a policy offers participation in profits, or is investment-linked, explain the specific difference between guaranteed and projected benefits;
 - (c) where projected benefits are illustrated, explain the assumptions on which the illustrations are based, including any future bonus or dividend declaration, and that projected benefits are not guaranteed;
 - (d) in the case of participating (with-profit) business, explain that any bonuses or dividends declared in the future may be lower or higher than those currently quoted and that past performance may not be a guide to future performance;
 - (e) in the case of linked long term business, explain that unit value and the value of the policy holder's benefits may fluctuate;
 - (f) unless specifically authorized by a Principal or appointing insurance agent, use only such sales proposals and illustrative figures that are supplied by the Principal or appointing insurance agent and shall use the whole illustration in respect of the policy being discussed, and no other, and shall not add to it or select only the most favourable aspects of it; and
 - (g) if he is authorized by a Principal or appointing insurance agent to prepare certain illustrations himself, prepare them using only the assumptions authorized by the Principal or appointing insurance agent.

Registered Persons Not to Act in connection with Insurance Brokers

83. A Registered Person shall not act as an authorized insurance broker, nor as the Chief Executive or Technical Representative of an authorized insurance broker.

**(b) HKFI - Updated Requirements Relating to the
Sales of Investment Linked Assurance Schemes
("ILAS") to Enhance Customer Protection**

Subject: Updated Requirements Relating to the Sale of Investment Linked Assurance Scheme ("ILAS") to Enhance Customer Protection

1 Background

This Circular supersedes the note issued on 25 January 2011 and the circulars issued on 22 April 2013 and 8 December 2014 respectively pertaining to the Sale of Investment Linked Assurance Scheme ("ILAS") issued by the Life Insurance Council of the Hong Kong Federation of Insurers ("HKFI"). The Insurance Authority considers it necessary for these requirements to be enhanced to protect further ILAS customers.

2 Purpose

The purpose of these updated requirements ("Requirements") is summarised below:

- i. To ensure that the suitability assessment of prospective ILAS customers has been carried out before recommendation of an ILAS product;
- ii. To ensure that the product features, charges and fees, the product and investment risk have been clearly explained to the prospective customer before fulfilment;
- iii. To ensure that all necessary product and marketing documents have been provided to the prospective customer before fulfilment; and
- iv. To ensure that the sales process for the purchase of an ILAS product has been done in the correct order, with an FNA and RPQ at the heart of the process.

3 Effective date

Member Companies which sell ILAS products are required to implement the Requirements as soon as practicable and in any event **no later than 1 January 2016**.

4 Requirements

4.1 Proper Sales Process

The intermediary must follow the proper ILAS sales process. This ensures that the key steps have been carried out to ensure the Customer Suitability Assessment, including the completion of the Financial Needs Analysis and Risk Profile Questionnaire - as set out in 4.2 and 4.3 respectively below - of the prospective ILAS customer is conducted before the recommendation of any ILAS product. The recommended ILAS sales process has been set out in Appendix A (Investment-Linked Assurance Scheme ("ILAS") Product Sales Flow (New Application)). The intermediary must also strictly follow the proper sales process as set out in 12.2 and Appendix of the Guidance Note on Underwriting Class C Business (GN15), particularly in relation to the comparison of different insurance options.

4.2 Financial Needs Analysis

Every application for an ILAS product must be accompanied by a financial needs analysis ("FNA") form. The FNA must include all the questions and multiple choice options in the suggested FNA form as set out in Appendix B. Member Companies may modify the FNA to include additional questions and/or multiple choice options as set out in Appendix B.

Neither Member Companies nor customers can opt out of the FNA. If a customer, for privacy or other reasons, chooses not to disclose income/asset information under 4(a) or (b) (but not both) of the FNA form, he/she must confirm their reason(s) in writing. This notwithstanding, if the absence of information under either 4(a) or (b) of the FNA form would render Member Companies or the intermediaries unable to comply with any of the requirements (e.g. assessing affordability of products recommended or comparison of

different insurance options etc) under this (or any other) circular, Member Companies must reject the relevant application and should advise the customer accordingly.

The FNA may be either presented as a separate form, or included as a section within another point-of-sale document such as the application form; but whichever option is adopted, the FNA must be clearly identified as a "Financial Needs Analysis" or an appropriate set of words that clearly conveys the document's purpose and must be signed and dated by the customer (s). For detailed requirements regarding FNA, please refer to the HKFI Circular "Initiative on Financial Needs Analysis".

4.3 Risk Profile Questionnaire

Every application for an ILAS product must include, or be accompanied by a Risk Profile Questionnaire ("RPQ"). The purpose of the RPQ is to assess a customer's investment risk appetite and determine if a particular product and its underlying investment choices (if any) are suitable. The form of the RPQ should include, as a minimum, questions covering the following areas:

- 1) investment objectives;
- 2) preferred investment horizon;
- 3) risk tolerance; and
- 4) financial circumstances.

However, there is no need to duplicate FNA questions in the RPQ. Member Companies must also exercise extra care when selling ILAS products to "Vulnerable Customers" i.e. the elderly or unsophisticated customers or those who may not be able to make independent investment decisions on complex investment products; particularly ILAS products with long maturity periods or which attract heavy penalties on early redemption or withdrawal.

Customers are not allowed to opt out or deviate in any respect from the RPQ process. Insurers are required not to accept the application if a customer chooses to opt out or deviate from the RPQ process.

Every application for an ILAS product must include the RPQ, which may be either presented as a separate form, or included as a section within another point-of-sale document such as the application form; but whichever option is adopted the RPQ must be clearly identified as a "Risk Profile Questionnaire" or an appropriate set of words that clearly conveys the document's purpose and must be signed and dated by the customer(s).

For the avoidance of doubt, FNA and RPQ are not required if they have been performed within one year (both for new application or top-up), provided that there are no substantial changes in the customers' circumstances (and in such cases Member Companies can rely on the written declaration by the customers) and that there are no mismatch (i.e. needs, risks, affordability etc) identified. For the purposes of this Circular, top-up includes increase in investment (single or regular premium). RPQ is not required for top-up that includes increase in premiums for addition or variation of non-ILAS riders (e.g. term, critical illness, accidental death benefits etc).

4.4 Important Facts Statement and Applicant's Declaration

Every application (new or top-up) for an ILAS product must include, or be accompanied by, an Important Facts Statement ("IFS") in the templates shown in Appendices C1 and C2. It should be noted that the Applicant(s) Declaration which was previously contained in the Application Form should now be located in this document. There are no changes to the

Applicant Declaration and where different versions were provided for agency and broker, this practice remains unchanged.

The "General Principles" in structuring the IFS are as follows:

- The general principle is that the template should be adopted in terms of structure, groupings and signatures but companies have the latitude to amend wordings to reflect accurately their specific products and its features;
- The IFS is a document required by the Insurance Authority ("IA") for all ILAS sales and will be subject to their audit. It is not a marketing document and does not therefore require the approval of the Securities and Futures Commission ("SFC");
- The intent of the IFS charges disclosure is to simply yet comprehensively demonstrate to the customer the combined impact of all fees and charges which may be incurred;
- We expect insurers to respect the principles, intention and spirit of the IFS and being accountable for any major deviations. It is not planned that the IFS will require pre-authorization by the IA but it will be subject to its audit at a later date;
- The whole content of the IFS has to be placed in a very distinct manner and at the forefront of the AD/IFS.
- The "Statement of Purpose" must remain free format and must be filled in by customers in their own handwriting; pre-set options will not be acceptable in any circumstances.
- Insurers have the duty to ensure that information contained in the IFS accurately reflects the information of the ILAS product in question.
- The HKMA may direct its members (banks) for its specific, additional requirements in relation to the IFS.
- For the avoidance of doubt, the IFS must be obtained for products that are open for top-up. All items must be filled except Para. 2 (Cooling-off period) and (for some very old products without principal brochure and/or key facts statements) Para. 4 (Long-term features) of the IFS.

IFS Versions

- Fundamentally, there are two versions of the IFS to reflect the complexity of the Fees & Charges of the specific product being sold;
- These versions are referred to as "Simple" and "Complex". It is the Member Company's responsibility to match the more appropriate IFS with its associated information, i.e. details of the fees and charges, to the ILAS product being sold;
- For ILAS products with "complex" charging structure, it is recognized that these may be tenure-specific and that a table highlighting all charges could be applied. Where an "all encompassing" table is applied showing all tenure specific charges, the intermediary would be required to highlight the specific charge in the table that applies to that tenure; alternatively, delete the ones that do not apply;
- The IFS will also be channel specific to reflect the specific requirements/modifications required by each channel, i.e. agency, banks and brokers.

Provision of signed IFS to policyholder

- Member Companies are required to provide policyholder with a copy of the signed IFS together with the policy.

Remuneration Disclosure Statement

- The IFS contains a statement (at paragraph 9 of Part I) that discloses the average remuneration payable to the intermediary, and advises the potential policyholder to consult the intermediary if more detail is required. Insurers must disclose the remuneration using “all-year-average” based on the calculation methodology and disclosure format set out in the “Intermediaries’ Remuneration Disclosure – Guide on Calculation Methodology and Disclosure Format” issued by the IA. Insurers may decide how the details are to be provided upon further enquiry from the customers, but Member Companies and their agents should bear in mind the following principles when deciding on how to formulate their approach:
 - disclosure must be made and should not be refused;
 - the disclosure amount and / or methodology should be accurate, and not misleading to consumers;
 - it must be presented in a format that is clear and easy to understand;
 - a common approach should be taken for all products and customer groups; and
 - failure to apply a fair and consistent methodology could result in the fit and proper status of an authorised individual being called into question.

Completing the IFS

The rules for the completion of the IFS are as follows:

- 1) The applicant(s) must complete the IFS. They cannot opt-out of this requirement.
- 2) The applicant(s) must sign the declaration in “Section I: Disclosure Declaration” to confirm that they understand and accept the highlighted features of the product as well as to confirm that they have received a copy of the HKFI’s Education Pamphlet entitled “Questions you need to ask before taking out an ILAS product”.
 - a) If the product has any unusual features or risks such as (without limitation to) market value adjustment, foreign exchange risk, leverage, investment choices based on hedge funds, extensive use of derivatives other than for risk management purposes, or is for the purpose of the Capital Investment Entrant Scheme (“CIES”), then the intermediary must explain these to the full satisfaction and understanding of the applicant(s) prior to signing. All applicant(s) must sign and date at the bottom of “Section I: Disclosure Declaration”.
- 3) The applicant(s) must then tick one of either box A or B in “Section III: Suitability Declaration”.
 - a) Box A should be ticked where the intermediary and the applicant(s) agree that the product is suitable for the applicant(s), based on the information provided by the applicant(s) as part of the FNA and RPQ.
 - b) Box B should be ticked by the applicant(s) in situations where it is assessed that the product may not be suitable for the applicant(s) based on the information disclosed in the FNA and RPQ. In addition, whenever box B is ticked, the applicant(s) must in their own handwriting provide sufficient explanation as to

why they have decided to proceed with the application, notwithstanding that the product may not be suitable.

- c) All applicant(s) must sign and date at the bottom of "Section III: Suitability Declaration".

Every application for an ILAS must include the IFS, which may be either presented as a separate form, or included as a section within another point-of-sale document such as the application form; but whichever option is adopted the IFS must be clearly identified as an "Important Facts Statement" or an appropriate set of words that clearly conveys the document's purpose and must be signed and dated by the applicant(s).

4.5 Suitability Check

Member Companies must establish operational controls to ensure that the FNA, RPQ and IFS are duly completed.

Member Companies must also establish a process to (i) verify whether the ILAS product sold, and key features such as the premium amount and term are considered suitable and affordable for the customer(s) based on the information disclosed by the customer(s), (ii) verify whether intermediaries have taken due account of the reasons/considerations set out by the customer in the "Statement of Purpose" paragraph of the IFS, together with other relevant information, in assessing whether a particular ILAS product is suitable for the customer(s), and (iii) deal appropriately with any exceptions as per section 4.6 below.

Special consideration is required where business is introduced by an insurance broker. It is important that in performing the Suitability Check and dealing with any exceptions as per Section 4.6 below, the customer(s) fully understand that the Insurance Company is not responsible for the advice given by the insurance broker. To facilitate this differentiation, a specific set of Important Facts Statement must be prepared for this purpose and must be used for business introduced from this type of intermediary. For the avoidance of doubt, however, Member Companies must still follow the requirement under 7.8 of the GN15 during the underwriting process for business introduced by insurance brokers, and follow up with the insurance broker concerned in case of mismatch.

4.6 Post-sale Controls

The Hong Kong Monetary Authority ("HKMA") has requested banks to make audio recordings of the ILAS sale. The Life Insurance Council of the HKFI considered that applying this recording requirement to other channels, such as agents and brokers, may not be practical "in the field". However, Member Companies can apply audio recordings in lieu of the Post Sale Call Requirement provided these are conducted in the Company's premises and that the appropriate protocols and processes are observed – See "Option B" later.

In view of protecting ILAS customers, Member Companies must implement the following controls for non-bancassurance ILAS sale (either in accordance with Option A or B below). Where additional control measures have been set up by Member Companies for "Vulnerable Customers", the script should be suitably modified to reflect those measures. In determining who is a "Vulnerable Customer" to whom an appropriate Post-sale Call must be made, account must be taken of the following matters, including but not limited to:

- Age: a customer over 65 is a Vulnerable Customer;

- Level of education: a person whose education level is “primary level” or below is a Vulnerable Customer; and
- Financial means: a person who has “limited means” or no regular source of income or both is a Vulnerable Customer.

Option A: Post-sale Controls

- 1) Copies of the Product Key Facts Statement for the relevant ILAS product and the signed Important Facts Statement and Applicant’s Declaration must be sent to the customer with the policy.
- 2) A notice (i) informing the customer that copies of the customer’s FNA and RPQ are available for inspection and (ii) advising where and how the customer may access these documents must be sent with the policy to the customer. This applies to all customers irrespective of which box (A or B) is ticked in Section III of the Important Facts Statement.
- 3) Not later than the 5th working day after the issue date of relevant ILAS policy, Member Companies must make reasonable efforts to complete and make audio recording of telephone calls with all customers to confirm their consent to both the suitability assessment as set out in Section 4.2 & 4.3 and Important Facts Statement and Applicant’s Declaration.
- 4) To ensure compliance with the Post-sale Call requirements, Member Companies must follow an approved script. The HKFI issued a minimum set of questions which is required to be included in this script. (See Appendix D) Nonetheless, Member Companies are entitled to develop their own version provided it includes at least those questions in Appendix D.
- 5) To guide the necessary actions in dealing with various situations or scenarios during the course of Post-sale Call conducted by the Member Companies, a flow chart “Flow chart - ILAS Post-Sale Call” has been issued by the HKFI (See Appendix E).
- 6) In case of any uncertain replies by the customers during the Post-sale call, the Member Company must ask the relevant intermediary to follow up with the concerned customer in such circumstances. The Member Company must conduct follow-up calls within the next 5 working days to clear the uncertain areas. In case the customer could not be reached or the follow-up call could not be completed properly, the Member Company must send a notification letter to the customer (alongside an email/SMS alert) citing the key areas of concern. Such letter should also set out the means for the customer to contact the Member Company for any disagreement on the points set out. The sample notification letter is provided in Appendix F1. For easy reading, the font size must be at least 12.
- 7) In case the customer could not be reached or the follow-up call could not be completed properly, the Member Company must send a notification letter (alongside an email/SMS alert) to the customer in which the key areas are drawn to their attention. Such letter should also set out the means for the customer to contact the Member Company for any disagreement on the points set out. The sample notification letter is provided in Appendix F2.

- 8) At the end of each Post-sale Call (including initial and any follow-up calls), the Member Company should advise the customer about the expiry date of the cooling-off period.
- 9) As per the guidelines of Privacy Commissioner, the recordings of calls should be kept during the period in which the concerned person is a policyholder and for a period of 7 years from the date on which the policy expires or terminates. In the event that the policy is not proceeded with, such recordings of calls should be kept for a period of 2 years before being erased.

Option B: Point-of-sale Audio Recording

Member Companies are allowed to adopt Point-of-sale Audio Recording ("PSAR") in lieu of Post-sale Call at their discretion for any cases of ILAS applications provided that the following requirements are met:

- 1) The PSAR must be conducted in the office of the Member Company;
- 2) An employee of the insurer must attend, manage and witness the whole PSAR process. Such employee should have no conflict of interest with the sales of the relevant ILAS policy, e.g. they will not earn, receive or be rewarded with any compensation directly due to the sale of the relevant ILAS policy
- 3) Either of the following approaches can be adopted for the PSAR:

Approach 1: To be conducted by employee on site

Once the ILAS sales process has been completed and all necessary forms, documents, application have been completed and signed by the applicant, the employee will activate an audio recording device to conduct the PSAR in accordance with the prescribed PSAR script – See Appendix G.

Approach 2: To be conducted by call centre employee

If the ILAS sale at the Member Company's offices but no audio recording devices are available, on the completion of the ILAS sales process all fulfilment documents will be passed to the Insurer's call centre staff who will call the applicant and conduct the PSAR script (see Appendix G) over the telephone. The whole discussion will be recorded.

- 4) The questions to be asked must follow the Point-of-sale Audio Recording Script issued by the HKFI (See Appendix G)
- 5) As per the guidelines of Privacy Commissioner, the recordings of calls for policies which **have been successfully** issued should be kept during the period in which the concerned person is a policyholder and for a period of 7 years from the date on which the policy expires or terminates. In the event that the concerned policy **is not taken up**, such recordings should be kept for a period of 2 years before being erased.

After proper completion of the Point-of-Sale Audio Recording, the Member Company is not required to conduct the Post-sale Call to the relevant applicant.

4.7 Certification of Copies of FNA and RPQ

Instead of receiving the original signed copies of FNA and RPQ, Member Companies are permitted to accept copies of the above documents provided they are appropriately certified for business introduced by banks and insurance brokers. In respect of business introduced by banks, the copies should be certified by the relevant bank branch manager and bear the bank's chop. For business introduced by insurance brokers, the copies should be certified by the Responsible Officer designated by the authorized representative of the insurance broker.

N.B. As the IFS is product related, the original signed document must be returned and retained by the Member Company. In no circumstances would a certified copy from an intermediary be acceptable.

5 Compliance with the GN15

Insurers are reminded to comply with the requirements of the GN15. Under no circumstances should insurers enter into arrangements with the intention to circumvent any of the requirements contained therein (e.g. using side agreement to pay indemnity commission in the form of loan or advance).

6 Updated ILAS Education Pamphlet entitled "Questions you need to ask before taking out an ILAS product"

In the interests of improving customer education, the HKFI has published an education pamphlet entitled "Questions you need to ask before taking out an ILAS product" in January 2011. This pamphlet is available from the HKFI's website at www.hkfi.org.hk. This pamphlet must be distributed to potential policyholders of ILAS products at the point-of-sale in accordance with section 4.1 above. It should be noted that this document is in the process of being updated to reflect changes arising from this Circular.

7 Summary

Member Companies must maintain robust internal procedures to ensure they strictly comply with this Circular. Member Companies (and their management, directors and controllers) who deliberately breach any aspect of the Circular may no longer satisfy the "fit and proper" requirement under the Insurance Companies Ordinance and may be liable to regulatory action.

Guidelines on Misconduct

The *Code of Practice for the Administration of Insurance Agents* (the *Code*) specifies that the Insurance Agents Registration Board (IARB) may issue Guidance Notes from time to time as to how it intends to exercise its powers and fulfil its responsibilities under the *Code*. This Guidance Note is intended to help both insurers and insurance agents comply with the *Code* and in particular Part F of the *Code*. The phrase "in good faith and with integrity" used in this Part cannot have a fully defined meaning, however, it is clear that it is in the best interests of customers, insurance agents and Principals to set out, from time to time, certain guidelines which if followed, provide comfort to all concerned that all possible steps are being taken to conduct business in good faith and with integrity.

Failure to comply may constitute a breach of the *Code* by either a Principal/an insurance agent under Part C or an insurance agent under Part F.

1. On no account will insurance agents ask customers to sign blank or incomplete forms and any alterations to forms must be initialled by the customers

Many complaints arise from prospective customers and/or clients whose interests have been adversely affected because they have submitted to their insurance agents' requests to sign blank forms. In order to protect the insuring public against potential losses arising from misrepresentation or forgery, insurance agents must not request their prospective customers and/or clients to sign blank forms or sign any documents relating to the policy before they have been duly completed and any alteration should be initialled by the customers.

2. An insurance agent selling a life assurance policy shall ensure that the prescribed *Customer Protection Declaration (CPD) Form* is completed

It is an insurance agent's duty to present each policy with complete honesty and objectivity. In the case where the client is already a policy holder, this means that full and fair disclosure of all facts regarding both the new coverage and the existing insurance is necessary. Policy holders should be made fully aware of the estimated cost of replacing an existing policy. In selling a life assurance policy, insurance agents must duly complete the *CPD Form* as prescribed by the Hong Kong Federation of Insurers from time to time and bring the content to the attention of the customer.

3. Principals must establish control procedures to monitor insurance agents' compliance with the *Code*

Principals will take all necessary steps to satisfy themselves that insurance agents are complying with the *Code* and with any Guidance Notes issued (as required by Part C). The IARB recognizes that individual circumstances may arise where it is impracticable or unhelpful to the customer to adhere rigidly to the *Code* or the Guidance Notes but the IARB will expect a principal to be able to demonstrate that sufficient check and control exist to ensure that exceptions are rare and fully documented.

When dealing with complaints the IARB may ask a Principal to provide details of the monitoring and control systems in place to ensure the Guidance Notes are not breached. Principals should note that the IARB may report to the Insurance Authority under Part B if it believes that adequate controls are not in place.

CODE OF CONDUCT

This Code of Conduct shall serve as a guide to members and the objective of the Code is to assist and establish a recognized standard of professional conduct.

The principles are as follows :

- a. Members shall at all times conduct their business with utmost good faith and integrity.
- b. Members shall do everything possible to satisfy the insurance requirements of their clients and shall place the interests of those clients before all other considerations. Subject to these requirements and interests, members shall have proper regard for others.
- c. Statements made by or on behalf of members when advertising shall not be misleading or extravagant.

The specific examples are that the company shall :

- 1. provide advice objectively, independently and impartially.
- 2. ensure that all employees are made aware of the Code of Conduct.
- 3. on request explain to a client the differences in the principal types of insurance and explain the terms and exclusions therein.
- 4. use sufficient number of insurers to satisfy clients' requirements without unduly limiting the client's choice.
- 5. use its skill objectively in the choice of an insurer or insurers in the best interests of a client and shall not be unreasonably dependent on any particular insurer in transacting broking business.
- 6. if required, inform a client of all insurers with whom a contract of insurance is placed and disclose any special association he may have with any insurer whom he is recommending.
- 7. have proper regard for the wishes of a client who seeks to terminate business.
- 8. ensure that any information received from clients shall not be used or disclosed except that relating to normal negotiation for insurance or if the information is required by a court of law.
- 9. in the completion of the proposal form, claim form, or any other material document, insurance brokers shall make it clear that all the answers or statements are the client's own responsibility and explain the principle of utmost good faith. The client shall always be asked to check the details and told that the inclusion of incorrect information may result in a claim being repudiated.
- 10. ensure that advertisements distinguish between contractual and non-contractual benefits.

- 11. ensure that advertisements are not restricted to the policies of one insurer except where reasons are given and the insurer is named.
- 12. ensure that advertisements shall disclose the company's identity, occupation and purpose.
- 13. advise clients that the Code of Conduct is available and display a notice to this effect in a prominent position in its office/offices.
- 14. ensure that any director or employee who may act for more than one broking firm shall identify to his client which broking firm he is representing in relation to each particular insurance transaction.



(b) for the purpose of reporting on the two such other days as referred to in Regulation 13.1.2, it is sufficient for the auditors to perform such procedures as laid down in the guidelines issued by the Hong Kong Institute of Certified Public Accountants in consultation with the Insurance Authority.

Such compliance audit shall be provided by an auditor appointed in Hong Kong.

13.2 Where requested by the General Committee, a Member shall provide to the Confederation:

13.2.1 a certificate, in such form as the General Committee may prescribe, signed by or on behalf of the Member together with such supporting documents as the General Committee may prescribe; or

13.2.2 such other evidence that such Member is in compliance with these Regulations;

13.2.3 at any time and any place in Hong Kong such other information as the Confederation or the Insurance Authority may require in pursuance of compliance with these Regulations or the Code of Conduct or other regulations, guidelines or guidance notes laid down by the Confederation or the Insurance Authority.

13.3 (repealed)

14. Disclosure of Information

14.1 A Member shall signify its membership of the Confederation by including the phrase "Member of the Hong Kong Confederation of Insurance Brokers" together with the registered emblem of the Confederation on its stationery (which includes letter-headed paper, facsimile paper, memorandum paper, "With Compliments" slips and business cards). The emblem of the Confederation may be omitted on business cards with insufficient space. The above phrase shall be printed in the same language as the language used in respect of a Member's name in any printed stationery.

14.2 A Member shall display the membership certificate issued by the Confederation in a prominent place in its office and ensure that the Code of Conduct is available for inspection upon request.

14.3 A Chief Executive or Technical Representative shall disclose his Registration Number if so requested by a policy holder or a potential policy holder and shall include such Registration Number on his business cards (if any).

14.4 (repealed; re-numbered as Regulation 7.12 and moved there under).

14.5 Where a Member, at the request of its client or as a result of the absence of suitable products available in Hong Kong, has referred or arranged an insurance contract with an insurer which is not authorized in Hong Kong, it shall advise the clients of the unauthorized status in Hong Kong of such insurer as per the format prescribed in Annex C.

- 14.6 Members shall not disclose any information acquired from his client except:
- 14.6.1 in the normal course of negotiating, maintaining or renewing a contract of insurance for that client to the extent that the information disclosed is required for such purposes;
 - 14.6.2 to other professional or commercial organizations in connection with the contract of insurance (including handling insurance claims) for that client including but not limited to loss adjusters and surveyors, security consultants and installation companies, property and engineering surveyors consultants and vendors, consulting engineers and architects;
 - 14.6.3 with the written consent of that client; or
 - 14.6.4 under a court order or to comply with obligations imposed upon it by law.
- 14.7 In negotiating or arranging contracts of long term insurance business, Members and their Chief Executive and Technical Representatives shall:
- 14.7.1 take all reasonable steps to establish the true and full identity of their clients;
 - 14.7.2 use a suitable confidential questionnaire to conduct a "needs analysis" for prospective policyholders in the selling process;
 - 14.7.3 in respect of any advice given on any insurance policy and where an illustration document is used, refer to such illustration document in its original format and shall not add to such illustration document or use or refer to parts only of such illustration document;
 - 14.7.4 bring to the attention of its clients the long term nature of the insurance policy and analyse the consequences and implications of its early discontinuance, surrender or replacement with another long term insurance policy;
 - 14.7.5 explain the difference between guaranteed and projected benefits, the assumptions behind any projected benefits illustrated, and explain that the projections are not guaranteed (e.g. where the relevant policy offers participation in profits or is linked to other investments);
 - 14.7.6 explain that in the case of a participating (or a "with profits") policy, any bonuses or dividends declared in the future may be lower or higher than those currently quoted and that past performance may not be a guide to future performance, or in the case of a linked long term policy, the value of the policyholder's benefits may fluctuate;
 - 14.7.7 complete a Customer Protection Declaration in accordance with the explanatory notes to such Customer Protection Declaration before its client agrees or makes a decision in relation to the purchase of a new long term insurance policy;
 - 14.7.8 deliver any new long term insurance policy together with a copy of the Customer Protection Declaration (if applicable) issued by the insurer through him to his client without delay.

3. Code of Conduct

- (a) Members of the Association shall at all times conduct their business with utmost good faith and integrity, and provide advice objectively and independently.
- (b) Members shall in all possibility satisfy the insurance requirements of their clients and shall place the interests of their clients above all other considerations.
- (c) Members shall ensure the use of a sufficient number of insurers to satisfy the requirements of their clients.
- (d) Members shall not disclose any information acquired from his client except in the normal course of negotiating, maintaining or renewing a contract of insurance for that client or unless the consent of the said client has been obtained or the information is required by a court of competent jurisdiction.
- (e) Members shall not make or cause to be made advertisements or statement, which in the opinion of the Association, are misleading or extravagant.
- (f) A member who engages in another business or occupation concurrently with the practice of insurance broking shall not allow such outside interest to jeopardize his integrity, independence or competence.
- (g) Members shall not charge or accept any fee that is disproportionate to the service rendered to a client.
- (h) Members shall uphold the institute of the insurance industry and shall not cause the public to lose confidence either in insurance brokers or the insurance industry as a whole.
- (i) In case a member refers its client to an overseas insurer not authorised in HKSAR, the member shall advise its client of the unauthorised status of the insurer and the reasons for recommending such insurer.
- (j) Members shall make it clear to their clients in completing the proposal form, claim form, or any other material document that the clients are solely responsible for the correctness of the answers or statements therein. The client shall always be asked to check the details and be advised that the inclusion of

incorrect information may result in a claim being repudiated.

- (k) Members shall keep the Association duly informed of any change in their particulars on registration by serving written notice thereof to the Association.
- (l) Members shall use every possible endeavour to ensure that their employees are fully aware of and comply and observe the Code of Conduct herein.

3A. Remuneration Disclosure

- (a) In respect of compliant client agreements

Where there exists a form of client agreement whether as a broker service agreement, brokers terms of business agreement or similar and where such agreement has been signed by the client and sets out clearly therein the express levels of fee or brokerage remuneration to be received by the Member then the provisions of 3A(b) and (c) below are deemed to have been complied with subject to the following:

- (i) related correspondence containing the remuneration terms is acceptable provided it is signed by the client;
 - (ii) this provision shall apply to insurance transactions which occur within a period of three years from the date of signing of the relevant client agreement and/or related correspondence; and
 - (iii) deemed compliance in respect of 3A(b) and (c) below will not apply where the client agreement and/or related correspondence does not clearly specify that any brokerage to be received under the terms of the client agreement and/or related correspondence will be paid to the Member by the Insurer.
- (b) In respect of General Insurance Business which is not deemed to have complied with 3A(a)

Members shall include the Form of Disclosure set out below

- (i) in client agreements whether as a broker service agreement, brokers terms of business or similar, and where the validity period does not exceed three years and the express levels of fee or brokerage remuneration to be received by the Member are not included; or

- (ii) for each and every other insurance transaction, in either the formal proposal or the quotation, cover note, the premium debit note or covering letter, whichever be issued earlier by the Member to the client.

The required Form of Disclosure shall be as follows:-

"[Broker Name] (the "Company") is remunerated for its services by the receipt of commission paid by insurers. Your agreement to proceed with this insurance transaction shall constitute your consent to the receipt of commission by the Company."

- (c) In respect of Long Term Insurance Business which is not deemed to have complied with 3A(a)

Members shall include the Form of Disclosure set out below

- (i) in client agreements whether as a broker service agreement, brokers terms of business or similar, and where the validity period does not exceed three years and the express levels of fee or brokerage remuneration to be received by the Member are not included; or
- (ii) in the questionnaire used by the Member for conducting the "needs analysis" of the client, which shall be copied to the client prior to any life insurance application form being filled in; or
- (iii) for each and every other Long Term Insurance transaction, in either the formal proposal, quotation, premium debit note or covering letter, whichever document is the first one issued and sent by the Member to the client.

The Form of Disclosure shall be as follows:-

"[Broker Name] (the "Company") is remunerated for its services by the receipt of commission paid by insurers. Your agreement to proceed with this insurance transaction shall constitute your consent to the receipt of commission by the Company."

- (d) In respect of Insurance Business transacted electronically
 - (i) In respect of web-based insurance transactions, Members shall build into their systems at the entrance webpage for online application, display of

the following Form of Disclosure and users are required to check a box as having read it before they are allowed to proceed with the application;

"[Broker Name] (the “Company”) is remunerated for its services by the receipt of commission paid by insurers. Your agreement to proceed with this insurance transaction shall constitute your consent to the receipt of commission by the Company."

- (ii) In respect of telemarketing insurance transactions, inwards or outwards, Members shall include the following Form of Disclosure in the telemarketing script, record at a good quality all telemarketing calls, and make the telephone recordings available to relevant self-regulatory organization and/or relevant insurers for compliance audit when required.

"[Broker Name] (the “Company”) is remunerated for its services by the receipt of commission paid by insurers. Your agreement to proceed with this insurance transaction shall constitute your consent to the receipt of commission by the Company."

Note 1: When a client asks the Member about the extent of remuneration, it is incumbent upon the Member to provide that information to the best of its knowledge, either in a maximum percentage of the premium paid (or to be paid) for the policy concerned or in a maximum dollar amount. A Member who declines to provide such details of remuneration following a request would be committing a breach of this requirement.

Note 2: Where the commission is higher than the range of brokerage commission customarily paid for the particular class of insurance or includes any other form of remuneration including but not limited to volume or profit commissions, service fees or marketing allowances paid by the insurers, then additional measures for disclosure and express consent may be required to comply with the provisions of the Prevention of Bribery Ordinance. See Note 4.

Note 3: In cases where the insurer sets a net premium and it is the Member who is charging the client a commission as remuneration for work done, as it is not received out of the premium charged by the insurer, the Prevention of Bribery Ordinance issues do not arise but disclosure is still required.

Note 4: Members may wish to seek their own legal guidance when addressing all or any of the issues above.

4. Monitoring Compliance

- (a) Members shall within 6 months after its financial year end submit documentary proof of continued compliance with the membership