

DISCUSSION DRAFT

Compendium of existing conduct standards applicable

to insurance agents 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”. [Further editing to this document will be required at a later stage on the proper usage of the terms “policyholders”, “potential policyholders” and “clients”.]~~

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Version [1.1](#)

References

Abbreviation 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. A licensee must adopt fair treatment of policyholders as an integral part of its or his business culture. [MAS clauses 1.1 & 1.2] [ICM P.3 item (a)] [G20 Principle 3] [ICP 19.2]

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]~~

~~6.5. 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] A licensee must also explain to its/his policyholders their obligation to disclose all material facts under the principle of utmost good faith. [note for WG members: this sentence is added in response to comments of WG members made at the last meeting.]

7.6. 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]

8.7. 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]

9.8. 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 clause a & an example set out under CIB clause 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)~~(f) 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)~~(g) A licensee shall, on request, explain to a policyholder the differences in the principal types of insurance and explain the terms and exclusions therein. [an example set out under CIB clause 3]

~~(i)~~(h) 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)~~(i) 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)~~(j) 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)~~(k) 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]

~~(m)~~(l) 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.”]

~~(n)~~(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) – “He shall explain the terms of the insurance contracts to his client and shall advise his client of any exclusion clauses provided in the contract.”;

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;

[an example set out under CIB clause 5; PIBA clause 3(a); IARB Guidelines on Misconduct]

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

~~(e)~~(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)]

~~(p)~~ ~~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)]~~ [note for WG members: paragraph moved to “Suitability” section.]

~~(e)~~(o)A licensee shall have proper regard for the wishes of a policyholder who seeks to terminate business. [an example set out under CIB clause 7]

[New] ~~(f)~~(p) 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)]

~~(s)~~(q)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 licensee~~ can demonstrate that such action is in the best interests of the policyholder. [Guernsey clause 5.1(a)]

[New]

~~(+)(r)~~ 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

~~(u)(s)~~ 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. [an example set out under CIB clause 8; PIBA clause 3(d); HKFI clause 76(h); OCI clause IV(D)]

~~(v)(t)~~ 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]

1.3 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)]~~

4.41.3 Illustrative examples on best interests obligations

Example 1

~~A licensee is providing a policyholder with a review of his life insurance policy, which currently sets a death benefit of \$3,000,000. The licensee advises the policyholder that he requires additional cover of \$1,000,000. The licensee recommends that the policyholder obtains a new policy with a cover of \$4,000,000 and then cancels the existing policy, rather than apply for additional cover within the existing policy. The terms of the life insurance policies and the annual premiums are the same. The advice entitles the licensee to a commission of 60% of the annual premium of the whole insured amount (i.e. \$4,000,000), rather than just the increased amount (i.e. \$1,000,000). The policyholder follows the advice.~~

~~As a result, the policyholder needs to have medical check, which he would not have needed if his level of cover was increased. The policyholder was nearing the four year anniversary of his existing policy. If he had continued to hold his existing policy, including if he increased his level of coverage, he would have been entitled to a 5% increase in the level of cover at no extra cost.~~

~~Commentary: In this situation, we consider that the licensee has given priority to maximising his own remuneration over the interests of the policyholder. The licensee has not complied with the best interests duty.~~

~~[Australia RG 175.381]~~

Example 2

A licensee is the appointed agent of two insurers (insurers A and B). After reviewing the need of a client, the licensee advises a suitable and appropriate policy to his client. The client follows the advice.

The client later finds out that policy C offered by insurer C provides the same level of cover as policy A and charges a lower premium. All other features of the two policies relevant to the need of the client are the same.

Commentary: The licensee will not be in breach of the best interests requirement solely for not giving advice on the policy issued by insurer C. The best interests requirement does not require an insurance agent to source and compare insurance products not offered by his principal(s).

[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 Your 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 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)] 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 as available to the licensee. [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.

4.3 Illustrative examples on suitability obligations

Example 3

Mr and Mrs B were in their 40s and had two children. They said they needed life assurance in case one of them died - so that there would be money to help support the surviving partner, as well as the children (until the children were 21). The licensee advised them to take out a whole-of-life policy. Mr and Mrs B told the licensee that they needed the life assurance only to be in place until their children were 21. Their pensions would also provide for the surviving partner should one of them die after retiring.

Commentary: The licensee has not complied with the suitability duty. Mr B

only needs the life assurance to be in place until his children reach 21 years old. Mr and Mrs B's needs could have been satisfied more cheaply and more appropriately - with simple term assurance (which the licensee could have provided) ending at their anticipated retirement date.

[UK FOS Case Study 1]

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

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]

(c) When making a recommendation on an insurance product, a licensee shall make adequate disclosure of all material facts relating to the key features of a product, and distinguish between facts and opinion in his/its presentation of recommendations to the policyholder. [MAS clause 6.3 and 6.6]

Information about the licensee

~~(e)~~(d) 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]

(f) 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)]

Information about insurance products

~~(e)~~(g) 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, early termination clauses and premium refund. [OCI clause IV(B)(g); HKFI clauses 76(f) & 80(f); MAS clause 6.3(f)]

[New] ~~(f)~~(h) 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] ~~(g)~~(i) 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]

~~(h)~~(j) 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

~~(k)~~ 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

~~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]~~

Information about the Policyholders

~~(l) A licensee shall advise policyholder that any information he provided on the application form, claim form, or any other material document is his own responsibility, and explain the principle of utmost good faith and the consequence of fraud, non-disclosure and inaccuracies. [an example set out under CIB clause 9; PIBA clause 3(j); HKFI clauses 77&81]~~

5.3 Illustrative examples on information disclosure

Example 4

~~Mr C started a whole-of-life policy to provide life assurance for his wife and children. He was happy that he would, potentially, have to pay for it until his death. After 10 years the insurer carried out a review of the plan. It told Mr C that he would either have to double his contributions to maintain the same level of cover - or significantly reduce the life cover provided by the plan if he wanted to keep paying the same premiums. Mr C complained that he had not been~~

told when the policy was sold by the insurance intermediary that the policy would be reviewed - and that he might be asked for more money. The insurer said that “the potential for reviews was disclosed in the policy conditions”.

The paperwork given to Mr C was examined. It was found that he had been given several different documents, some of which did not apply to his policy. Some of the paperwork gave the impression that the premiums would be “level” in the future – rather than the impression that the premiums might be altered.

Commentary: The potential for reviews was mentioned in the policy conditions. But it was not given any prominence, or explained clearly and in a way that Mr C could have understood easily. There was no mention of the reviews in the rest of their correspondence. With not enough evidence that the intermediary had made Mr C aware of the reviews and their implications, the licensee has not complied with the information disclosure duty.

[UK FOS Case Study 2]

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