

Part 9

Records and Assistance Required from Certain Bodies

120. IARB and approved broker bodies to provide records and assistance to Authority in relation to licence and approval

- (1) IARB and every approved broker body must provide the Authority with records and assistance that the Authority requires for—
 - (a) considering whether a person may be regarded as having been granted a licence or approval under Division 2, 3, 4, 5, 6, 7 or 8 of Part 4 of this Schedule;
 - (b) considering whether a person may be granted a licence or approval under section 64U, 64W, 64Y, 64ZA, 64ZC, 64ZE or 64ZF; and
 - (c) compiling a complete and accurate register of every such persons.
- (2) The records referred to in subsection (1) do not include a notification of change of particulars, or of the appointment, of any of the following persons that has not been processed or validly registered with IARB or the approved broker body by a date specified by the Authority—
 - (a) an insurance agency registered with IARB;
 - (b) an individual agent registered with IARB;
 - (c) a technical representative registered with IARB;
 - (d) a responsible officer registered with IARB;
 - (e) an insurance broker registered with an approved broker body;

- (f) a technical representative registered with an approved broker body;
 - (g) a chief executive registered with an approved broker body.
- (3) The records and assistance must be provided to the Authority in the manner, and within the time, specified by the Authority.

121. Self-regulatory bodies to provide records and assistance to Authority in relation to complaints, appeals and disciplinary sanctions

- (1) A self-regulatory body must provide the Authority with records and assistance that the Authority requires for compiling a complete and accurate record of—
- (a) the complaints that have been lodged with the body;
 - (b) the appeals (including applications for leave to appeal) that have been made to the body; and
 - (c) the disciplinary sanctions that have been imposed by the body.
- (2) The records and assistance must be provided to the Authority in the manner, and within the time, specified by the Authority.

- (3) In this section—

self-regulatory body (自我規管團體)—

- (a) in relation to a complaint lodged with IARB or a sanction imposed by IARB—means IARB;
- (b) in relation to an appeal made to the Appeals Tribunal established by HKFI—means the Appeals Tribunal; and

- (c) in relation to a complaint lodged with an approved broker body, an appeal made to an approved broker body or a sanction imposed by an approved broker body—means the body.

122. Records to be provided under sections 120 and 121 of this Schedule

- (1) In relation to a record provided by a person to the Authority under section 120 or 121 of this Schedule, all the rights and obligations of the person subsisting immediately before the provision are taken to be transferred to the Authority on the provision of the record.
- (2) The Authority must ensure that there are in place proper procedures and systems to safeguard against unauthorized access to, or unauthorized use of, the records provided under sections 120 and 121 of this Schedule.
- (3) In relation to personal data provided under sections 120 and 121 of this Schedule, the Personal Data (Privacy) Ordinance (Cap. 486) applies as if the data had been received by the Authority rather than the person concerned.
- (4) In relation to personal data provided under sections 120 and 121 of this Schedule, the Authority must ensure that the personal data is used, disclosed and retained for the purposes set out in those sections and the performance of its functions under this Ordinance.
- (5) The provision of a record by a person to the Authority under section 120 or 121 of this Schedule does not amount to—
 - (a) a breach of duty of confidentiality to which the person is subject immediately before the provision;
 - or

- (b) a contravention by the person or the Authority of the Personal Data (Privacy) Ordinance (Cap. 486).

123. HKFI to provide rules to Authority

- (1) HKFI must provide the Authority with a complete set of rules that have been from time to time issued or approved by HKFI, or issued by IARB under the authority of HKFI, in relation to a person specified in subsection (2).
- (2) The person specified for subsection (1) is—
- (a) an insurance agency registered with IARB;
 - (b) an individual agent registered with IARB;
 - (c) a technical representative registered with IARB;
or
 - (d) a responsible officer registered with IARB.
- (3) The rules must be provided to the Authority in the manner, and within the time, specified by the Authority.
- (4) In this section—
- rule* (規則) includes—
- (a) the code of practice for the administration of insurance agents issued by HKFI under section 67 of the pre-amended Ordinance;
 - (b) the guidance notes issued by IARB for the code of practice; and
 - (c) the guidance notes issued by HKFI in relation to the conduct requirements for a person specified in subsection (2).
- (5) In this section, a reference to a rule is a reference to the rule and any other rule replacing, amending or supplementing the rule from time to time.

124. Approved broker bodies to provide rules to Authority

- (1) An approved broker body must provide the Authority with a complete set of rules that have been from time to time issued by the body in relation to a person specified in subsection (2).
- (2) The person specified for subsection (1) is—
 - (a) an insurance broker registered with the body;
 - (b) a technical representative registered with the body;
or
 - (c) a chief executive registered with the body.
- (3) The rules must be provided to the Authority in the manner, and within the time, specified by the Authority.
- (4) In this section—

rule (規則), in relation to an approved broker body, includes—

 - (a) its Memorandum and Articles of Association;
 - (b) a rule, regulation, guideline, by-law or code of conduct made by the body in accordance with its Memorandum and Articles of Association; and
 - (c) a circular issued by the body in relation to the conduct requirements for a person registered with the body.
- (5) In this section, a reference to a rule is a reference to the rule and any other rule replacing, amending or supplementing the rule from time to time.

125. Authority to publish rules under sections 123 and 124 of this Schedule

- (1) The Authority must, as soon as practicable after receiving a rule under section 123 or 124 of this Schedule—

- (a) publish the rule in the Gazette; and
 - (b) make the content of the rule available to any person for inspection free of charge on the Internet.
- (2) A rule published under subsection (1) is not subsidiary legislation.

126. Failure to comply with requirement under section 120, 121, 123 or 124 of this Schedule

- (1) If a person fails to comply with a requirement under section 120, 121, 123 or 124 of this Schedule, the Authority may apply by originating summons to the Court of First Instance for an inquiry into the failure.
 - (2) On an application under subsection (1), the Court of First Instance—
 - (a) on being satisfied that there is no reasonable excuse for the person not to comply with the requirement, may order the person to comply with the requirement within the time specified by the Court; and
 - (b) on being satisfied that the failure was without reasonable excuse, may punish the person, and any other person knowingly involved in the failure, in the same manner as if the person and that other person had been guilty of contempt of court.
 - (3) An originating summons under subsection (1) is to be in Form No. 10 in Appendix A to the Rules of the High Court (Cap. 4 sub. leg. A).”
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