REGULATORY NEWSLETTER

2024 Vol.9

Though the Mid-Autumn Festival, a time for reflection and celebration, has come and gone, we would like to take a moment to express our heartfelt appreciation for your ongoing trust in our services. Much like the full moon signifies unity and harmony, ComplianceDirect remain committed to being your steadfast partner in navigating the complexities of compliance and regulatory requirements.

REGULATORY UPDATES

Launch of "CPD Non-Compliance Reporting" Platform (with e-Payment function) on Insurance Intermediaries Connect

12 August 2024

The "CPD Non-Compliance Reporting" Platform (with e-Payment function) has been launched on the Insurance Intermediaries Connect ("IIC") which serves as a medium for Principals (including authorized insurers, licensed insurance broker companies and licensed insurance agencies) to report and process any non-compliance of the CPD requirements for the CPD Assessment Period ending on 31 July 2024 (and onwards) committed by their appointed individual licensees, or individual licensees the Principal are intending to recruit, who have agreed to be disciplined in line with the Penalty Framework for Non-compliance with Continuing Professional Development Requirements issued by the IA by entering into an agreement pursuant to Section 84 of the Insurance Ordinance (Cap. 41) ("Section 84 Agreement").

The "CPD Non-Compliance Reporting" Platform on IIC automates the manual process of reporting any non-compliance of the CPD requirements and generating Section 84 Agreements that were stipulated in the circular dated 14 November 2023. The platform also allows for pecuniary fines to be settled electronically via different payment methods expediting the disciplinary process and enables individual licensees to monitor the progress of the disciplinary process.

A User Guide has been uploaded onto the IA website which provides information on how to use the

"CPD Non-Compliance Reporting" Platform and the e-Payment on IIC. A Demonstration Video will also be uploaded on the IA website this month.

Principals are advised to disseminate this circular to appointed individual licensees to ensure they are made aware of the "CPD Non-Compliance Reporting" Platform on IIC.

View Circular

Submission of Audited Financial Statements and Auditor's Report under Section 73(1) of the Insurance Ordinance (Cap.41) ("IO")

15 August 2024

The importance of submitting audited financial statements etc. on time

Pursuant to section 73(1) of the IO, a licensed insurance broker company must, within 6 months after the end of each financial year ("the 6-month submission deadline"), submit to the Insurance Authority ("IA"):

• its audited financial statements;

• an auditor's report on its financial statements; and

• an auditor's report stating whether the auditor is of the opinion that the broker company has continued to comply with the Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules (Cap.41L)

(collectively "the Required Documents").

Compliance with this submission requirement serves as a vital policy holder protection measure. By submitting the Required Documents within the 6-month submission deadline, a licensed insurance broker company demonstrates that it has subjected its financial statements, controls and processes to independent audit and review and is able to satisfy regulatory requirements and time-lines. This gives confidence to clients that deal with the broker company. By corollary, failure to submit the Required Documents in time is indicative poor controls and processes and undermines confidence with clients.

Accordingly, this important regulatory requirement is underpinned by section 73(2) of the IO, which makes failure to comply with the requirement an offence, rendering the broker company liable to a fine at level 6, and in the case of a continuing offence, to a further fine of $500 for each day during which the offence continues.

What if a broker company is unable to meet the deadline for reasons outside its control?

There may, of course, be occasions when a broker company may experience difficulty in submitting the Required Documents within the 6-month submission deadline, due to matters outside of its control. In these circumstances, to seek to avoid committing an offence, the broker company must apply to the IA (in advance of the deadline) for an exemption under section 79 of the IO to extend the deadline for submitting its Required Documents ("Submission Extension").

In the Annex to this letter, the IA sets out the documents (and application fee) that a broker company will need to submit (and the timing of submission) when making an application for a Submission Extension. In considering such applications, the IA takes account of all relevant considerations, including the underlying reasons for the inability to meet the deadline and whether or not this was due to circumstances outside the broker company's control. The IA will also take account of its broad understanding of the operational difficulties that licensed insurance broker companies may face under exceptional circumstances, whilst at the same time balancing this against the need to be fair to those licensed insurance broker companies who have been able to meet the deadline. After all, it remains imperative that licensed insurance broker companies make it a priority to submit the Required Documents on time.

As indicated in the Annex, a fee is payable for applications for Submission Extensions that are submitted to the IA from 23 September 2024 onwards. In setting these fees, the IA has used its discretion under section 3 of the Insurance (Prescribed Fees) Regulation to adjust downwards the level of fee that would otherwise have been payable for a Section 79 exemption application, to better reflect the cost of processing applications for Submission Extensions.

Broker companies with a financial year end date of 31 March 2024 should pay particular attention, if they anticipate being unable (due to circumstances outside their control) to meet the 6-month submission deadline for submitting the Required Documents by 30 September 2024. If you make your application for a Submission Extension before 23 September 2024, you will not have to pay the application fee. If you make your application on or after 23 September 2024, however, you will need to pay the application fee.

To be clear, no application for Submission Extension will be entertained if it is made after the applicable 6-month submission deadline has passed. Given the fundamental importance of the requirement to submit the Required Documents within the 6-month submission deadline, any licensed broker company that either fails to comply with this requirement, or fails to obtain the necessary Submission Extension, can expect to be the subject of enforcement action.

View Circular

"Conduct in Focus" – August 2024

16 August 2024

The summer edition of the Insurance Authority ("IA")'s periodical "Conduct in Focus" is now available on the IA's website. You can read it – or listen to the articles – by accessing the following link:

https://www.ia.org.hk/en/legislative_framework/files/Eng_Conduct_in_Focus_Issue_9_Aug_2024.pdf

Want to take a deep dive into the role of insurance brokers in the life insurance market? Look at the standards, controls and processes demanded by the IA on referral business to stop policy holders (particular Mainland China Visitors) from being put at risk of unlicensed selling? Take a peek into the IA's current thinking on how commission structures should be aligned with the "treating customers fairly” principle? Then this edition of Conduct in Focus is for you.

Other topics include our latest complaints and disciplinary statistics; best practices for general insurers on sending out renewal notices; a call to action for insurers and broker companies to join the SMS Sender Registration Scheme to protect customers from scams; highlighting the benefits to policy holders of using insurers’ online self-service portals; and the restructuring of the IA’s Market Conduct Division into the Conduct Supervision Division and the Enforcement Division to underpin the IA’s dual emphasis on prevention and deterrence.

The five-year transitional period since the IA took on the regulation of licensed insurance intermediaries, finally comes to an end on 23 September 2024, when the IA starts charging fees for processing insurance intermediary licensing applications and related notifications. The final fee structure has taken full account of feedback received from stakeholders in the industry consultation conducted by the IA. The IA looks back at the work done in the past five years and explore how this additional income stream will assist in sustaining the IA’s capacity over the long term to perform its vital public function.

View Circular

Insurance Authority releases provisional statistics of the Hong Kong insurance industry for the first half of 2024

30 August 2024

The IA released provisional statistics of the Hong Kong insurance industry for the first half of 2024, showing a rise of total gross premiums by 5.1% to $310.9 billion over the corresponding period in 2023.

(Percentage figures shown in brackets represent year-on-year changes)

Long term business

Total revenue premiums of in-force long term business were $273 billion in the first half of 2024 (increased by 5.5%), mainly comprising $243.3 billion from Individual Life and Annuity (Non-Linked) business (increased by 6.9%), $10.7 billion from Individual Life and Annuity (Linked) business (decreased by 16%), and $15.1 billion from Retirement Scheme business (increased by 1.9%). During the same period, total claims and benefits paid to policy holders amounted to $183.6 billion1 (increased by 18.2%).

New office premiums (excluding Retirement Scheme business) of long term business were $115.9 billion (increased by 12.3%), made up of $111.3 billion from Individual Life and Annuity (Non-Linked) business (increased by 15.5%) and $4.3 billion from Individual Life and Annuity (Linked) business (decreased by 34.7%). Around 44,000 Qualifying Deferred Annuity Policies were issued, attracting $2.8 billion in terms of premiums or 2.4% of the total for individual businesses.

New business premiums derived from Mainland visitors receded by 6.9% to $29.7 billion compared with the same period last year, whose share of total new office premiums for individual businesses dropped from 31% to 25.7%. As before, about 97% of the new policies were settled at regular intervals (i.e. non-single premium). Whole life, critical illness and endowment insurance represented about 59%, 29% and 3% of the number of these policies respectively.

General business

In the first half of 2024, the gross and net premiums of general insurance business were $37.9 billion (increased by 2.4%) and $24.4 billion (increased by 5%) respectively, against which total gross claims of $17.3 billion were paid (increased by 13.7%). The overall underwriting profit improved from $1.5 billion to $1.9 billion (increased by 33.9%).

On direct business, the gross and net premiums were $27.8 billion (increased by 3.2%) and $19 billion (increased by 2.1%) respectively. The gross premiums of Accident & Health business reached $11.7 billion (increased by 12.5%), benefitting from growth of group medical business and sustained demand for travel insurance. The gross premiums of Property Damage business and Motor Vehicles business also rose to $3.4 billion (increased by 3.4%) and $2.8 billion (increased by 8.5%) respectively, while the gross premiums of Pecuniary Loss (comprising Mortgage Guarantee) business reduced to $1.3 billion (decreased by 35%) amid conservative sentiments in the property market.

Direct business generated an overall underwriting profit of $1.4 billion (increased by 95.4%), with the net claims incurred ratio dipping slightly from 60.8% to 58.5%. Due to better claims experience and release of reserves, General Liability (comprising Employees' Compensation) business reported underwriting profit of $0.8 billion (increased by 92.2%), while Pecuniary Loss business also saw a surge in underwriting profit to $0.5 billion (increased by 128%) due to lesser payment of upfront commission in respect of Mortgage Guarantee business.

On reinsurance inward business, the gross and net premiums were $10.1 billion (increased by 0.4%) and $5.4 billion (increased by 16.8%) respectively. An expansion of Accident & Health business and General Liability business outweighed the contraction of Pecuniary Loss business, Property Damage business and Goods in Transit business. The overall underwriting profit shrank by 23% to $0.6 billion, with the net claims incurred ratio shooting up from 42.3% to 54.1%, mainly attributable to adverse claims experience.

A summary of the provisional statistics is provided at Annex, and additional details can be obtained at the IA website.

View News

ENFORCEMENT NEWS

Insurance Authority imposes a ban on four individuals for making use of false documents in applying for registration as licensed insurance agents

1 August 2024

The IA continues to strengthen enforcement work and imposed a ban on four individuals who made use of false academic certificates to apply for registration as licensed insurance agents during the period between 2014 and 2019.

Among the four individuals, three produced an academic certificate issued by the same university in Mainland China which was not in existence at the material time. For the fourth case, the relevant educational institute confirmed that it has neither issued an academic certificate nor any records to support that the individual did graduate from the institute. One individual who admitted to the allegation is banned from applying for registration as licensed insurance agent for 23 months, while the other three received a ban of 35 months.

The IA wishes to cite these disciplinary actions to stress again that the use of false or forged documents is a serious act of deceit that undermines the probity and integrity of industry practitioners. Such transgressions, if allowed to perpetuate, will erode public trust in the insurance industry and do injustice to other insurance intermediaries who strive in good faith to meet the licensing criteria. Denial of entry into the trade is thus necessary and justified until the four individuals can establish to the IA's satisfaction that they have undergone a complete reformation of character and obtained the requisite academic qualification.

Since these offences occurred before the IA took over from the three self-regulatory bodies on 23 September 2019, they have to be handled in accordance with requirements prevailing at the time and disciplinary approaches adopted by the former Insurance Agency Registration Board. Due consideration has been made on the level of cooperation shown by each of the individuals and whether they confessed to the wrongdoings. It is particularly worth reiterating that such offences attract much more severe penalties under the new regulatory regime rolled out by the IA that could entail a fine of $50,000 and imprisonment for six months.

View News

Insurance Authority inspection results in enhancements to anti-money laundering controls and processes and fine

2 August 2024

Following an on-site inspection carried out by the IA under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (AMLO), on the business carried on by AIA International Limited (the Company) through its Hong Kong branch, the Company has been ordered:-.

(a) to submit to the IA by a date and in a manner to be specified by the IA, a report prepared by an independent external advisor to validate the ongoing effectiveness of the remediation measures implemented by the Company to comply with AMLO; and

(b) to pay a pecuniary penalty of HK$23 million.

The inspection related to processes and controls in effect for both new and in-force business for the period from March 2016 to October 2022. During the inspection, the IA found technical issues with the manner in which the Company's Hong Kong branch had implemented and was using its anti-money laundering system (AML System) and associated algorithm.

As a result, not all customers (or the beneficial owners of its customers) who were politically exposed persons (PEPs) had been picked up in the screening "alert" processes. Whilst ultimately there were no policy holders onboarded who should not have been, the system issues identified resulted in delays in the Company's Hong Kong branch establishing their source of funds/wealth and obtaining the requisite senior management approval as required by AMLO. Certain customers assessed by the AML system as being "high risk" had also not been subjected to enhanced due diligence in a timely manner and it was identified that improvements were needed in the monitoring processes for suspicious transactions in the Company's Hong Kong branch. The Inspection also found scope for the Company to enhance its AML compliance and management oversight processes in its Hong Kong branch.

Demonstrating a cooperative approach throughout and following the Inspection, the Company has implemented a range of measures to remediate all matters identified and to strengthen and reinforce its governance, controls and oversight. These include further investments to enhance and upgrade its AML System and associated processes and generally using the Inspection findings made by the IA as a catalyst to reinforce, drive and strengthen AML compliance controls across its business.

The actions taken by the Company demonstrate the value of the regulatory inspection regime, both in subjecting insurers' governance, processes and systems to scrutiny and in driving remediation and constant improvement through direct engagement between the regulator and those it regulates. The IA acknowledges the Company's co-operation during the Inspection, its early acceptance of the findings and its response and commitment to remediating all matters and implementing improvements. This has included substantial investments in the relevant systems already made by the Company and a commitment by the group to which the Company belongs voluntarily to engage an independent expert advisor to validate the ongoing effectiveness of the anti-money laundering controls and processes across the group's businesses.

All authorized insurers and licensed insurance intermediaries carrying on long term business must have in place effective anti-money laundering and counter-terrorist financing controls and procedures. This disciplinary action demonstrates that they will be held to account for this, no matter the size of their operation. The insurance industry must be founded on trust and integrity. The establishment of effective systems and controls to combat money laundering and terrorist financing is imperative to reinforce that trust. It is also vital to maintaining Hong Kong's position as an international finance centre.

View News

Insurance Authority draws public attention on the dire consequences of mishandling or misappropriating premium payments

26 August 2024

The IA draws public attention on a recent conviction handed down by the Magistrates' Court that involves a former licensed insurance agent being sentenced to imprisonment for three months and two weeks as well as ordered to pay compensation equivalent to the misappropriated premium.

A client purchased an insurance policy from the agent in 2020 and passed HK$60,000 to the agent in cash for settling the renewal premiums, which was misappropriated and caused the policy to lapse in 2021. After a report was made to the Police and the IA, the agent was arrested and pleaded guilty for an offence under Section 9 of the Theft Ordinance (Cap. 210) on 22 April 2024.

Mishandling or misappropriating premium payments is a serious breach of trust and an unforgivable act of duplicity. The IA reminds all industry practitioners that committing an offence of this nature will lead to dire consequences and urge policy holders to pay their premiums through official channels provided by the insurer.

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