
REGULATORY NEWSLETTER

2024 Vol.5



Welcome to the fifth edition of our Regulatory Newsletter. In this issue, we reflect on the past month's significant developments within the financial industry, focusing specifically on the evolving landscape that professionals in risk management and compliance face. We aim to provide a concise summary of the latest regulatory updates that have occurred in Hong Kong, ensuring you stay informed and ahead in your respective fields!

REGULATORY UPDATES

Good Practices on Technology Risk Management ("TRM")

12 April 2024

In 2023, the Insurance Authority ("IA") conducted a survey titled "Technology Risk Management Fact-Finding Survey" on the three supervised groups of Designated Insurance Holding Companies ("DIHCs") that are subject to the IA's group supervision. Survey responses were analyzed having regard to industry good practices and applicable regulations of jurisdictions in which the supervised groups operate.

With the objective of promoting operational resilience through the adoption of sound and robust practices in managing technology risks amongst the supervised groups of DIHCs, the IA would like to draw your attention to the good practices and potential areas for enhancement that have been identified following the review. The IA will continue to monitor the evolving landscape of TRM to ensure that regulatory requirements and industry good practices remain aligned and may consider the need for further guidance as necessary.

[View Circular](#)

GL4: Guideline on “Fit and Proper” Criteria in relation to Authorized Insurers under the Insurance Ordinance (Cap. 41)

12 April 2024

Pursuant to section 133 of the Insurance Ordinance (Cap. 41), the Insurance Authority (“IA”) has published a revised Guideline on “Fit and Proper” Criteria in relation to Authorized Insurers under the Insurance Ordinance (“GL4”). Enclosed please find a copy of the revised GL4 which is also available on the IA website (https://www.ia.org.hk/en/legislative_framework/guidelines.php).

The GL4 is revised in view of the enactment of the Insurance (Amendment) Ordinance 2023 (“Amendment Ordinance”). Comments from insurers have been considered during the revision process. Amendments to GL4 include, among other things, elaboration of the “fit and proper” criteria for majority shareholder controller, the qualification and experience requirement for certifying actuary in relation to general business, and the assessment of internal control and corporate governance structure for body corporates. The revised GL4 shall take effect together with the commencement of Part 2 of the Amendment Ordinance.

[View Circular](#)

ENFORCEMENT NEWS

Insurance Authority suspends Chiu Kin Fung Jacky for ten months for falsifying signatures and impersonation

17 April 2024

The Insurance Authority (IA) has taken disciplinary action against Mr Chiu Kin Fung Jacky (Mr Chiu), an individual insurance agent and a registered mandatory provident fund (MPF) subsidiary intermediary (SI) at the material time, by suspending his licence as an insurance agent for ten months on the ground that, by his actions in forging a client’s signature and instigating impersonation on multiple occasions, he has shown that he is not a fit and proper person to carry on regulated activities as an insurance agent.

In 2016, a client instructed Mr Chiu in his capacity as a registered MPF SI to transfer her MPF accrued benefits from several MPF trustees to the principal intermediary by which Mr Chiu was appointed. Mr Chiu proceeded to accomplish this by forging the client’s signature (without the client’s knowledge) on five transfer application forms across the period between 2017 and 2020. He also enlisted the help of his female colleagues to impersonate the client on six separate occasions to call the relevant trustees

from which the benefits were being transferred, in order to obtain the client's account details.

Mr Chiu's methods only came to light when he used the wrong transfer application form in 2020, causing his principal to notify the client who then realized it was not her who had been signing all the forms.

Being given the statutory role for monitoring compliance of registered MPF intermediaries in the insurance sector, the IA investigated the matter as the relevant frontline regulator of the MPF intermediary concerned. After discussing and considering the investigation findings with the Mandatory Provident Fund Schemes Authority, the IA decided to take disciplinary action under the Insurance Ordinance (Cap. 41).

The means by which Mr Chiu effected the transfers demonstrated a lack of integrity in his conduct. Completing applications forms and obtaining personal information about a client for these purposes are tasks that are core to carrying on regulated activities as an insurance intermediary, as much as they are in serving as an MPF intermediary. In demonstrating a propensity to forge client signatures on application forms and using elicited means to obtain client information through enlisting colleagues to impersonate the client, Mr Chiu displayed such a lack of ethics and integrity as to impugn his fitness and properness to carry on regulated activities as an insurance agent. A suspension of his licence is therefore justified and necessary to punish and deter such behaviour and to afford time for reflection and reform of character.

The IA acknowledges Mr Chiu's admission of his wrongdoings and his cooperation in accepting the disciplinary action which has resulted in prompt resolution of this matter. This serves as a necessary first step in rehabilitating his character.

In deciding the disciplinary sanction to be imposed under the Insurance Ordinance (Cap. 41), the IA has weighed all relevant circumstances in the balance, including that:

- Mr Chiu forged the client's signatures on five MPF transfer applications between 2017 and 2020;
- Mr Chiu instructed at least two female colleagues to impersonate the client on six separate occasions;
- Mr Chiu benefitted financially (i.e. he received commission) from his said conduct;
- Mr Chiu expressed remorse over his conduct;
- Mr Chiu's otherwise clear disciplinary record; and
- The need to send a message to deter similar conduct.

[View News](#)

Insurance Authority and ICAC conduct first joint operation against suspected unlicensed selling to Mainland China Visitors

11 April 2024

The Insurance Authority (IA) and the Independent Commission Against Corruption (ICAC) have conducted their first joint operation targeting corrupt conduct in the unlicensed sale of insurance policies to Mainland China customers. The joint operation was conducted pursuant to the Memorandum of Understanding (MoU) signed by the ICAC and IA on 26 October 2023.

Search warrants were executed by the IA and ICAC on two consecutive days (April 10 and 11) at four premises, including the offices of a licensed insurance broker company and a referral company. In the joint operation, the ICAC also arrested an individual broker and a referrer.

The companies and individuals concerned are suspected of having engaged in, or conspired with others to carry on unlicensed regulated activities in contravention of the Insurance Ordinance¹ and also of suspected offences of agent using documents with intent to deceive his principal under the Prevention of Bribery Ordinance. Breaches of the Code of Conduct for Licensed Insurance Brokers are also suspected to have been committed.

The investigation concerns the suspected engagement and incentivisation of referrers by a broker company to carry on regulated activities (advising on and selling of insurance policies) on its behalf, even though such referrers do not have the requisite licence to do this. The broker company offered to pay inordinately high referral fees on successful sales, apparently incentivising its referrers to induce customers from Mainland China to buy long term insurance policies from authorized insurers in Hong Kong. In some cases, referrers appear to have been paid over 90% of the commission received by the broker company. Although the broker company submitted the insurance application forms to insurers, the substantial regulated activities were apparently performed by referrers prior to customers having any engagement with the broker company.

In the investigation, the individual broker and the referrer are also suspected of corruptly conspiring to include false information in application forms submitted to the Hong Kong insurers underwriting the policies, including the annual income and amount of assets held by Mainland customers.

Mr Peter Gregoire, Head of Market Conduct and General Counsel of the IA, said: "Our partnership with the ICAC in carrying out this joint operation demonstrates our shared determination to uphold proper sales practices in the insurance industry, ensure the market is founded on trust and integrity, and thereby provide confidence to all persons who look to the Hong Kong insurance market to meet their insurance needs. This close collaboration will continue not only through joint enforcement measures but also through industry training via the Hong Kong International Academy Against Corruption to enhance corporate governance standards and public education to empower consumers."

Deputy Commissioner and Head of Operations of the ICAC, Mr Ricky Yau Shu-chun, said: "The MoU signed between the ICAC and the IA last year strengthened our cooperation in referral of cases, joint investigations, training and exchange of information. Last month, IA representatives attended a three-day Training on Joint Operations organised by the ICAC for local regulatory bodies to enhance officers'

capability of combating financial crime and corruption. This joint operation showcases our common goal in upholding the integrity of the insurance industry. The ICAC will continue to closely collaborate with the IA, as well as other financial regulators, to combat corruption, illicit activities and misconduct relating to the financial sector. We will strive to maintain a fair business environment in Hong Kong, to sustain Hong Kong's status as a clean international financial centre and to ensure the trust of stakeholders in the financial system."

No further comment will be made by IA or ICAC at this stage as the investigation is ongoing. The IA urges all authorized insurers and licensed insurance intermediaries to comply with the Insurance Ordinance, and undertakes to continue to take swift and firm enforcement actions to curb the abovementioned activities and / or any other misconduct.

[View News](#)



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