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# REGULATORY NEWSLETTER

2024 Vol.7



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Happy July! We hope this summer month is treating you well so far. The warm, sunny days and vibrant greenery of the season are truly a delight. We trust you've been able to take some time to enjoy the pleasures of summertime - whether that's relaxing by the pool, going for scenic hikes, or simply savoring the longer daylight hours. In this joyful month, ComplianceDirect is thrilled to share our regulatory updates from the IA with you!

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## REGULATORY UPDATES

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### **Pilot Scheme for Continuing Professional Development Training for Responsible Officers of Licensed Broker Companies during the Assessment Period 2024/2025**

**28 Jun 2024**

A Responsible Officer ("RO") of a Licensed Insurance Broker Company essentially performs a dual role. Each RO is a technical representative (broker) ("TRB") and, like any TRB, is responsible for performing regulated activities on behalf of the broker company in accordance with the insurance regulatory framework. An RO, however, has an additional (and some may say more important) management responsibility of using best endeavours to ensure that the broker company of which he or she is RO has established and maintains proper controls and procedures for securing compliance with the conduct requirements in the Insurance Ordinance (Cap. 41) by the broker company and its TRBs and securing observance by the TRBs of the broker company with these controls and procedures.

As with any TRB, an RO of a broker company has to comply with the Continuing Professional Development ("CPD") requirements set out in the Guideline on Continuing Professional Development for Licensed Insurance Intermediaries ("GL24"). This requires completion, during each annual CPD

Assessment Period (which runs from 1 August to 31 July), of 15 CPD hours, including 3 compulsory CPD hours in “Ethics or Regulations”. The CPD requirement in GL24 is currently focused on the carrying on of regulated activities at the individual intermediary (e.g. TRB) level, without there being any additional CPD training for ROs to complete that focuses on the RO’s additional management responsibilities. This, in our view, is a gap which needs to be addressed in a practical manner, given the importance of the role that an RO performs.

To address this, for the forthcoming CPD Assessment Period (1 August 2024 to 31 July 2025), the IA is rolling out a pilot scheme for ROs of broker companies to complete an RO specific CPD (“RO-CPD”) course of 2 hours. The RO-CPD course will be rolled out through the two broker industry bodies, the Professional Insurance Brokers Association (“PIBA”) and the Confederation of Insurance Brokers (“CIB”). To be clear, this will not be an additional 2 CPD hours, but part of the 15 hour CPD requirement that an RO has to do anyway, and completion of the 2 hour RO-CPD course will also count towards completion of 2 of the 3 CPD hours that need to be completed on “Ethics and Regulations”.

Every RO of a broker company will be expected to attend any session of the RO-CPD course run by PIBA or the CIB during the 2024/2025 CPD Assessment Period. As it is a pilot scheme, attendance of the RO-CPD course is encouraged as best practice rather than being made compulsory, albeit records will be taken as to which ROs have attended (and, by their absence, which have not). Those who have not attended may be asked to provide explanation and nonattendance may be taken into account by the IA as one factor (out of many factors) in our assessing the conduct risk profile of the broker company (which is used to decide, for example, whether the IA will target a broker company for formal inspection and how in-depth that inspection needs to be).

Even though it is a pilot scheme, the IA would encourage all ROs to attend the RO-CPD training (as part of their 15 CPD hours). The fact that the IA is introducing this pilot scheme is a demonstration of the importance it places on the role of RO. Every RO must serve as a role model for the “treating customers fairly” principle and also has a pivotal role in ensuring business conducted by broker companies aligns with this principle, which is vital to reinforce the insurance market with confidence.

If the pilot scheme is well-received and proves successful, the IA will consider formalizing the RO-CPD requirement by updating GL24 to include the requirement for future CPD Assessment Periods.

Details of the RO-CPD pilot training scheme will be announced by the IA (and PIBA and the CIB) in due course. If you have any questions concerning the information contained in this circular or the pilot RO-CPD training scheme, please send your enquiries by email to [cpd@ia.org.hk](mailto:cpd@ia.org.hk).

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## Findings from IA-HKMA joint inspection exercise on premium financing

27 Jun 2024

Following the commencement of the supervisory standards and requirements on premium financing ("PF") on 1 January 2023 (the "Standards"), the Insurance Authority (the "IA") and the Hong Kong Monetary Authority (the "HKMA") jointly announced and carried out a new round of joint inspection exercise on PF activities in late 2023, with the objectives to assess the industry's level of compliance with the Standards, gauge the latest market trends under the higher interest rate environment, and identify potential areas for further regulatory attention. The joint inspection exercise has been completed by the two regulators recently.

This circular serves to share the key observations from the joint inspection and highlights the good practices and potential areas for enhancement, by providing further details on the expectations with regard to compliance with the Standards and other relevant regulatory requirements.

It was found that authorized insurers and licensed insurance intermediaries were generally able to comply with the Standards and to make due efforts to ascertain and assess the customers' circumstances with respect to their use of PF. Most authorized insurers would adopt a more prudent threshold than the Standards when assessing whether a customer is having a risk of over-leveraging<sup>2</sup> and would reject applications with a risk of over-leveraging. The newly introduced disclosure requirement "Important Facts Statement – Premium Financing" ("IFSPF") was widely adopted across all intermediaries' channels.

Some good practices were also observed amongst authorized insurers and licensed insurance intermediaries, for example:

- adopting a more conservative approach to affordability analysis by applying loan stress testing and/or assets haircut;
- displaying the leverage ratio in the financial needs analysis ("FNA") form and explaining its implication to the customers; and
- conducting post-sale calls to PF customers depending on the circumstances, not just to vulnerable customers.

Having said that, there were issues noted in the individual cases which fell short of the regulators' expectations, for example:

- Some insurers and intermediaries were unaware that recommendations/solicitations involving the use of PF without first ascertaining the loan details are not permitted under the Standards;
- A market practice was found where customers with potential affordability mismatch were asked to "reconfirm" their financial circumstances, by revising the FNA form multiple times to increase the available financial resources or premium paying appetite, which casts doubts about the customer's true circumstances;
- Some reference letters issued by banks, that the insurers have used as asset proof and for Know-Your-Customer purposes, were found containing incorrect and ambiguous information about the customer which was not duly verified;

- Some IFS-PF were not duly completed prior to policy issuance due to operational oversight;
- Some suspected non-compliance cases were noted with product recommendations made before the completion of the FNA; and
- Some lending banks conducted credit assessment only based on customers' ability to repay monthly interest without ascertaining whether a risk of over-leveraging existed.

Details of the observations of the two regulators can be found in the Annex and the relevant findings have been shared with individual insurers and insurance intermediaries for appropriate follow-up actions (where applicable).

Authorized insurers and licensed insurance intermediaries are hereby reminded to continuously observe the Standards and all relevant regulatory requirements, and benchmark good practices where appropriate.

Given the current higher interest rate environment compared to previous years, authorized insurers and licensed insurance intermediaries are also reminded to exercise due care to customers in particular regarding the increased risks with the use of PF. The two regulators will keep closely monitoring the market development of PF and continue to enhance awareness and education of customers where necessary.

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## **Continuing Professional Development ("CPD") Requirements CPD Compliance Reporting for the Assessment Period 2023/2024 Detailed instructions for reporting by individual licensees and appointing principals to the Insurance Authority ("IA")**

7 Jun 2024

In this circular we set out the procedures for reporting of CPD attainment for the 1 August 2023 to 31 July 2024 CPD Assessment Period ("Assessment Period 2023/2024").

### I. IMPORTANT DEADLINES

By way of recap, the key deadlines for the Assessment Period 2023/2024 are:

**31 July 2024** – Deadline for individual licensees<sup>1</sup> to complete their CPD hours for the Assessment Period 2023/2024.

**30 September 2024** – Deadline for individual licensees to submit their CPD Declarations either directly to the IA via Insurance Intermediaries Connect ("IIC") (see further details below) or to their appointing principals.

**31 October 2024** – Deadline for appointing principals to report the CPD compliance status of their appointed individual licensees to the IA.

## II. INFORMATION ON CPD HOURS AVAILABLE IN IIC

Individual licensees can view the number of CPD hours they are required to complete during the Assessment Period 2023/2024 and the reported compliance status by logging into their IIC individual accounts and clicking the "CPD Requirement and Compliance Status" option from the vertical menu on the left.

Appointing principals can view the CPD hours requirement and the reported compliance status for each of their individual licensees for the Assessment Period 2023/2024 in IIC, by taking the following steps:

- i. logging into their IIC Supervisor or Admin accounts;
- ii. clicking the "Search for Licensees' CPD Requirement and Compliance Status" option from the vertical menu on the left; and
- iii. inputting the licence number of the individual licensee to be searched and pressing the "Search" button.

Appointing principals may also download their CPD Lists showing all of their appointed individual licensees and the CPD hours each was required to earn, by:

- i. logging into their IIC Supervisor or Admin accounts;
- ii. clicking the "Report" option from the vertical menu on the left;
- iii. selecting "(11) CPD hours required for the Assessment Period 2023/2024" from the pull down menu under "Report Type"; and
- iv. clicking 'Download'.

The CPD Lists will be updated by the IA on a daily basis to keep track of the status of the appointed individual licensees for each appointing principal. The final CPD Lists showing the status of the appointed individual licensees for each appointing principal as at 31 July 2024 will be available in IIC on 1 August 2024. To facilitate appointing principals' monitoring of the CPD compliance status of their newly appointed individual licensees after 31 July 2024, in the CPD Lists downloaded after 1 August 2024, an additional list of newly appointed individual licensees after 31 July 2024 will be appended to the original list of appointed individual licensees as at 31 July 2024. Appointing principals may also report CPD compliance for these newly appointed individual licensees as appropriate.

A number of licensed insurance agencies and licensed insurance broker companies still have not created a Supervisor Account in IIC. The IA emailed the CPD Lists to these appointing principals in May 2024 to enable them to monitor the CPD compliance status of their appointed individual licensees. The IA will also send the finalized CPD Lists to these appointing principals in early August 2024. However, in order to access their CPD Lists as they are updated, it is imperative that these appointing principals open a Supervisor Account in IIC as soon as possible. A Supervisor Account in IIC can be opened by submitting a signed Form A2 to the IA. Please visit the "Forms – Insurance Intermediaries" webpage on the IA website for the application form and user guides.

### III. CPD REPORTING PROCEDURES

Individual licensees now have two options for submitting their CPD Declarations to report their CPD compliance status for the Assessment Period 2023/2024. They can submit their CPD Declarations directly to the IA through their IIC individual accounts. Alternatively, they can submit their CPD Declarations to their appointing principals.

#### 1) Direct submission of CPD Declarations by Individual Licensees to the IA via IIC

In ANNEX 1 to this circular, we have set out detailed procedures for an individual licensee to report his/ her CPD Declaration directly to the IA via his/ her IIC individual account. You may also refer to our user guide for details of the latest available functions. - 3 - If an individual licensee chooses to submit his/ her CPD Declaration directly to the IA via IIC, the submission must be made by 30 September 2024.

Please also note that:

- **Before 31 July 2024** - individual licensees can submit their CPD Declaration via IIC, but only if they have already fulfilled their CPD hours (i.e. reporting their compliance status as "Yes").
- **Between 1 August 2024 and 30 September 2024** - all individual licensees can submit CPD declaration via IIC (including those who report their compliance status as "No" to denote a shortfall in the number of CPD hours completed for the Assessment Period 2023/2024).
- **Between 1 October 2024 and 15 November 2024** - any individual licensee who (before 30 September 2024) self-reported their compliance status as "No", can update and provide additional documentation via IIC to show they have since rectified their shortfall.

In addition, the individual licensee must notify his/ her appointing principal(s), if any, that his/ her CPD Declaration has been submitted to the IA via IIC.

For CPD Declarations submitted directly to the IA by appointed individual licensees, the appointing principal should verify that the CPD compliance status reported against its internal compliance monitoring records, and advise individual licensees to amend their reported CPD compliance status if necessary.

Please note that individual licensees who do not have any appointing principal as at 31 July 2024 (and whose licences are thereby automatically suspended) must report their CPD Declarations directly to the IA. They must do this via IIC (using their IIC accounts) or by emailing their duly completed CPD Declaration Forms to [cpdreporting@ia.org.hk](mailto:cpdreporting@ia.org.hk). They should add their Licence Numbers in the subject of the email, e.g. "CPD Reporting for 2023/2024 (Licence no.: AA9999)".

#### 2) Submission of CPD Declarations to appointing principals for reporting onto the IA

In ANNEX 2 to this circular, we have set out the detailed procedures for an individual licensee to report his/ her CPD Declaration to his/ her appointing principal by 30 September 2024, and for appointing principals in turn to report the CPD compliance status of their individual licensees onto the IA, by

submitting the completed CPD Lists in relation to their appointed individual licensees to the IA via IIC. The submission from appointing principals must be made by 31 October 2024.

Please note that:

- **Before 31 July 2024:** appointing principals may report the compliance status of their appointed individual licensees who have already fulfilled the CPD requirements by submitting completed CPD Lists via IIC (i.e. reporting the compliance code "Y").
- **Between 1 August and 31 October 2024:** appointing principals may report the compliance status of all of their appointed individual licensees (including those newly appointed individual licensees after 31 July 2024) by submitting completed CPD Lists via IIC.

#### IV. CPD PENALTY FRAMEWORK FOR ASSESSMENT PERIOD 2023/2024

The minimum number of CPD hours an individual licensee is required to complete for the Assessment Period 2023/2024 is 15 CPD hours, including a minimum of 3 CPD hours on topics that count as "Ethics or Regulations" (except for travel agents licensed to carry on regulated activities in restricted scope travel insurance business who are only required to earn 3 CPD hours). We remind you of the applicable CPD Penalty Framework for the Assessment Period 2023/2024 by including it in ANNEX 3 to this circular.

#### V. MISCELLANEOUS

The CPD compliance rate rose from 90% in 2021/2022 to 96.1% in 2022/2023, driven by publication of the CPD Non-Compliance League Table by the IA, a processing we will be continuing this year. Completing CPD hours serves as a demonstration of up-to-date expertise and knowledge and is a basic requirement for any profession. As we approach the end of the CPD Assessment Period 2023/2024, we challenge the industry as a whole to aim for 100% CPD compliance as a public demonstration of trust and confidence in the Hong Kong insurance market.

#### VI. ENQUIRIES

- For matters concerning the information contained in this circular, or IIC, or the opening/ the use of a Supervisor Account, please send your enquiries or applications by email to [licensing@ia.org.hk](mailto:licensing@ia.org.hk).
- For matters concerning the CPD Lists, please send your enquiries by email to [cpd@ia.org.hk](mailto:cpd@ia.org.hk).

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## ENFORCEMENT NEWS

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### **Insurance Authority imposes a pecuniary fine of HK\$44,270 against a broker company and a technical representative for mishandling of insurance policy under the former self-regulatory regime**

24 June 2024

The Insurance Authority (IA) has imposed a pecuniary fine of HK\$37,270 against a licensed insurance broker company and a pecuniary fine of HK\$7,000 against a licensed technical representative for failing to handle the insurance policy of a client with due care and diligence under the former self-regulatory regime.

In November 2018, the client obtained a quotation via the broker company's website on insurance coverage for his vehicle purchased from a dealer. A staff from the dealer contacted the technical representative of the broker company to obtain a quotation again and asked her to apply for a motor policy. The technical representative wrongly assumed the staff to be an authorized representative of the client and went ahead. A cover note was subsequently issued by the insurer with validity until 7 December 2018 pending the production of outstanding documents.

The technical representative then sent the cover note to the dealer, in contravention of internal guidelines set by the broker company that require it to be passed directly to the client. Four SMS reminders were sent by the broker company to the client chasing for outstanding documents, three only after the cover note expired. The reminders were vague and ambiguous, unable to express clearly what documents were outstanding and how they should be submitted. Furthermore, neither the broker company nor the technical representative saw fit to follow up with the client even though premiums were duly paid by him.

On 24 February 2019, the client was involved in an accident that caused his vehicle to be written off and led him to purchase a new vehicle from the dealer. When the technical representative was requested to transfer the insurance policy of the client's former vehicle to his new vehicle, she informed the staff of the car dealer that an insurance policy must first be taken out before it could be transferred to another vehicle. The staff was also requested to file a report on the accident but indicated that the client would not want to do so. The technical representative did not explain the consequences to the client.

After receiving all outstanding documents, the insurer issued a policy to the client on 12 March 2019 and the broker company applied to transfer it to the new vehicle by declaring that the client had not been involved in any accidents over the past three years. The policy was passed to the client on 9 July 2019 (i.e. more than four months after the accident) by the broker company without explaining that accidents should be immediately reported.

In October 2019, the client was convicted of careless driving and demanded to pay HK\$480,000 and



HK\$72,730 for causing personal injuries and property damages respectively. The insurer only settled the former since no timely report was made on the accident.

The broker company and the technical representative have fallen short of the standards expected of them and jeopardized the interests of their client. Specifically, the broker company did not install an effective mechanism to screen authorized representatives, resulting in the client not covered by a valid policy when the accident occurred and overlooked the requirement to file a report on the accident.

Members of the public rely on broker companies and technical representatives to ensure that their protection needs are accurately assessed and suitably mitigated. It is imperative for them to act in the best interest of policy holders and potential policy holders, handle application for insurance policies with due care and diligence and follow up with the client on outstanding documents to ensure that insurance policies are issued without delay.

In response to a proposal made by the IA to impose a pecuniary fine of HK\$100,000, the broker company admitted its wrongdoing and made a compensation of HK\$62,730 (after deducting an excess of HK\$10,000) to the client for property damages. We therefore decided to impose a fine of HK\$37,270 against the broker company. For the technical representative, a pecuniary fine of HK\$7,000 was imposed due to seriousness of the wrongdoing despite her early agreement to the penalty. The following factors are relevant:

1. the broker company has learned from this incident and installed an effective mechanism to screen authorized representatives;
2. the broker company has made a voluntary payment to the client as remedial action and has since enhanced its internal controls and procedures;
3. the SMS reminders were ambiguous and vague;
4. the technical representative contravened internal guidelines set by the broker company to chase up on the outstanding documents or convey to the client the serious consequences of not reporting an accident;
5. the broker company did not pass the insurance policy directly to the client;
6. the application for transfer of insurance policy contained incorrect information;
7. the broker company and the technical representative have otherwise been maintaining clean disciplinary records; and
8. the need to achieve adequate deterrence.

The IA will stay vigilant and take disciplinary actions against broker companies or technical representatives who fail to properly discharge their duties. Please see the section titled "[Enforcement News](#)" in our website for further details about this case and browse the "[Register of Licensed Insurance Intermediaries](#)" for all public disciplinary actions taken against insurance intermediaries.

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**ComplianceDirect Consulting Limited**

Address: Unit 2, 10/F, Cheong K. Building, 84 & 86 Des Voeux Road Central, Central, Hong Kong

Phone: 2606 1800

Website: [www.compliancedirecthk.com](http://www.compliancedirecthk.com)