

Process Review Panel for the Insurance Authority

2021 Annual Report

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Message from the Chairman

Consisting more than 160 authorized insurers and 130,000 licensed intermediaries, the insurance industry of Hong Kong is renowned for its openness and robustness. The independent regulator of this important industry of Hong Kong is the Insurance Authority (“IA”).

The IA was established under the Insurance Ordinance (Cap. 41) on 7 December 2015. It took over the responsibility of regulating insurance companies from the then Office of the Commissioner of Insurance on 26 June 2017 and assumed direct regulation of insurance intermediaries on 23 September 2019.

The Process Review Panel for the Insurance Authority (“PRP”) is an independent panel established by the Chief Executive on 1 November 2019. It is tasked to review and advise the IA on the adequacy of the IA’s internal procedures and operational guidelines governing the actions taken and operational decisions made by the IA and its staff in the performance of the IA’s regulatory functions.

As the inaugural Chairman of the PRP, I am delighted to lead the PRP to review the process of the IA. Out of the some 20,000 completed or discontinued cases in the review period between 1 January 2019 and 30 June 2020, the PRP selected and reviewed 30 cases, which straddled across various important regulatory functions of the IA, including complaint handling, authorization of insurers, licensing of intermediaries and exercise of statutory power. The PRP’s observations and recommendations for the IA are set out in detail in this report.

Against the backdrop of the ever-evolving economic situation, challenges brought by the COVID-19 pandemic and relative youth of the IA, I believe this report marks a good starting point for the PRP in its journey to assist the IA in the enhancement of its process, thereby contributing to the common and ultimate goal of developing and maintaining a fair and competitive insurance industry of Hong Kong.

The work of the PRP would not be so smooth without the effort

and dedication of its Members, whose diverse experience and expertise have been reflected in their insightful observations and recommendations. Also, I would like to express my gratitude to the IA for its close collaboration with the PRP and the Financial Services and the Treasury Bureau for the secretariat support to the PRP.

Mr Eugene Fung, SC
Chairman
September 2021

Chapter 1: Background

Overview

- 1.1 The Process Review Panel for the Insurance Authority (“PRP”) is an independent panel established by the Chief Executive on 1 November 2019.
- 1.2 The PRP is tasked to review and advise the Insurance Authority (“IA”) on the adequacy of the IA’s internal procedures and operational guidelines governing the actions taken and operational decisions made by the IA and its staff in the performance of the IA’s regulatory functions.

Functions

- 1.3 The Terms of Reference of the PRP are as follows –
 - (a) To review and advise the IA upon the adequacy of the IA’s internal procedures and operational guidelines governing the actions taken and operational decisions made by the IA and its staff in the performance of the IA’s regulatory functions in relation to the following areas –
 - (i) receipt and handling of complaints;
 - (ii) authorization of insurers and associated matters;
 - (iii) licensing of intermediaries and associated matters;
 - (iv) co-ordination and follow-up with the Hong Kong Monetary Authority in relation to the inspection and investigation of banks’ insurance intermediary activities; and
 - (v) exercise of statutory powers of inspection, investigation, imposing disciplinary sanctions and prosecution.
 - (b) To receive and consider periodic reports from the IA on all completed or discontinued cases in the above-mentioned areas, including reports on the results of prosecutions of offences within the IA’s jurisdiction and of any subsequent appeals.

- (c) To receive and consider periodic reports from the IA in respect of the manner in which complaints against the IA or its staff have been considered and dealt with.
- (d) To call for and review the IA's files relating to any case or complaint referred to in the periodic reports mentioned in paragraphs (b) and (c) above for the purpose of verifying that the actions taken and decisions made in relation to that case or complaint adhered to and are consistent with the relevant internal procedures and operational guidelines and to advise the IA accordingly.
- (e) To receive and consider periodic reports from the IA on all investigations and inquiries lasting more than one year.
- (f) To advise the IA on such other matters as the IA may refer to the Panel or on which the Panel may wish to advise.
- (g) To submit annual reports and, if appropriate, special reports (including reports on problems encountered by the Panel) to the Financial Secretary which, subject to applicable statutory secrecy provisions and other confidentiality requirements, should be published.
- (h) The above terms of reference do not apply to committees, panels or other bodies set up under the IA, the majority of which members are independent of the IA.

1.4 The PRP does not judge the merits of the IA's decisions and actions and focuses on the procedural propriety of the regulatory regime instead.

Membership

- 1.5 The PRP comprises nine Members, including Chairman, from the academic, accounting, insurance, legal and social services sectors. The Chairman of the IA and the Secretary for Justice (or her representative) are ex-officio members of the PRP.
- 1.6 The Membership of the PRP from 1 November 2019 to 31 October 2021 is as follows –

Chairman

Mr Eugene Fung Ting-sek, SC

Members

Miss Grace Chan Man-yee

Mr Chow Wai-shun

Mrs Agnes Koon Woo Kam-oi, MH

Mr Patrick Law Fu-yuen

Mr James Lin

Mr Jeff Wong Kwan-kit

Ex-officio Members

Dr Moses Cheng Mo-chi, GBM, GBS, JP

(in the capacity as the Chairman of the IA)

Ms Yan Man-wai, Beverly (from 1 November 2019 – 6 April 2021)

Dr Yung Kin-chung, Boyce (from 7 April 2021 – 31 October 2021)

(in the capacity as the representative of the Secretary for Justice)

Secretariat

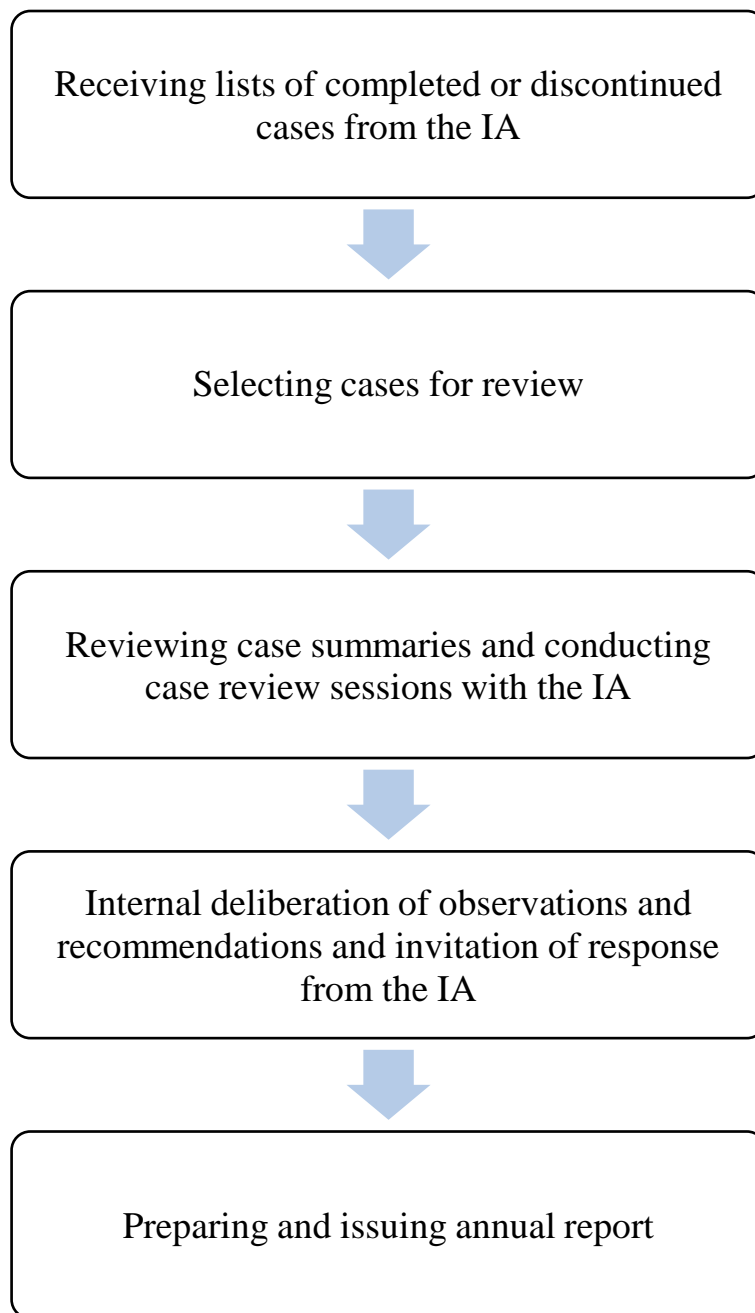
Financial Services and the Treasury Bureau

Chapter 2: Work of the PRP

Modus operandi

- 2.1 The IA provides the PRP with lists of completed or discontinued cases in the review period from which the PRP selects cases for review. For cases selected by the PRP for review, the IA provides case summaries, together with the relevant internal procedures and operational guidelines, for the perusal of the Members.
- 2.2 Case review sessions are held at which representatives of the IA respond to questions of the Members and make available case files for the Members' review.
- 2.3 The PRP discusses and endorses observations and recommendations with respect to the internal procedures and operational guidelines of the cases reviewed and invites the IA to respond and follow up.
- 2.4 The PRP issues an annual report setting out the observations and recommendations of the PRP having regard to the response of the IA.
- 2.5 Members of the PRP are obliged to preserve secrecy in relation to information furnished to them in the course of the PRP's work. Furthermore, to maintain the independence and impartiality of the PRP, all Members are required to make a declaration of interest upon appointment to the PRP and when a potential conflict of interests situation arises.

2.6 The workflow of the PRP is summarized in the flowchart below –



Work of the PRP in the current review cycle

- 2.7 Having formulated its modus operandi as described in paragraphs 2.1 – 2.6, the PRP selected the period between 1 January 2019 and 30 June 2020 (covering 18 months) as the review cycle (“current review cycle”). Consideration was given to the inaugural status of this report and that the IA came into full operation in September 2019 upon assuming direct regulation of insurance intermediaries.
- 2.8 Based on the lists of 20,956 completed or discontinued cases in the current review period as provided by the IA, the PRP selected 30 cases¹ for review. The cases covered a wide range of categories so to cover the various aspects of the IA’s work. The distribution of the cases is as follows –

Category of cases selected for review	Number of cases
Receipt and handling of complaints (excluding complaints against the IA or its staff)	9
Receipt and handling of complaints – Complaints against the IA or its staff	3
Authorization of insurers and related matters	3
Licensing of intermediaries and associated matters	12
Exercise of statutory powers of inspection, investigation, imposing disciplinary sanctions and prosecution (including subsequent appeals)	3
Total number of cases	30

- 2.9 As a form of division of labour, the PRP formed three sub-groups, each comprising three Members and reviewing ten cases.
- 2.10 Each sub-group held a case review session with the IA. With reference to the case summaries and case files provided by the IA,

¹ The PRP had not pre-set a quota for the number of cases to be reviewed such that the PRP in the subsequent review cycles could flexibly decide the number of cases to be reviewed, taking into account the experience of the PRP in preparing this inaugural report and the then-actual situation.

relevant internal procedures and operational guidelines and responses given by the representatives of IA to the Members' questions, Members reviewed the process of these cases.

2.11 Observations of the PRP in respect of the selected cases and its recommendations to the IA are set out in Chapter 3.

Briefings provided by the IA

2.12 To facilitate the work of the PRP, the IA gave a briefing to the PRP on the organization and work of the IA.

2.13 Furthermore, noting that cases on applications for intermediary licences constituted a major proportion of the cases in the current review period, the PRP invited the IA to provide a briefing on the IA's electronic application system for intermediary licences.

Chapter 3: Observations and Recommendations on Cases

Reviewed

- 3.1 In the current review cycle, the PRP reviewed 30 cases, which were of different nature, complexity and processing time. Having reviewed the cases, the PRP recognized the IA's effort in discharging its wide range of duties, including those related to complaint handling, authorization of insurers, licensing of intermediaries and enforcement. The PRP also noted the large volume of cases, i.e. 20,956 cases, completed or discontinued by the IA during the current review cycle.
- 3.2 On the whole, the PRP did not observe any serious problems with the internal procedures of the IA. The PRP noted some areas in which IA could make improvements, and the PRP's observations and recommendations on the cases reviewed are summarized in the ensuing paragraphs.

(a) Complaint handling procedures

Observations and recommendations

- 3.3 The PRP reviewed 12 complaint cases, including those against insurers, intermediaries and the IA or its staff. The processing time of the cases reviewed ranged from 1 to 21 months.
- 3.4 The PRP observed the processing time of some cases was long, which could often be attributed to the time taken by the multiple parties involved, which might include the IA, complainants, insurers intermediaries, and other relevant professional / regulatory bodies, in processing the cases. For example, for a case which stemmed from a commercial dispute involving a reinsurance broker, a Lloyd's coverholder and two cedants, the PRP noted that the case was eventually withdrawn by the complainant after 14 months of processing efforts by the IA and other parties. To ensure efficient

use of time and resources, the PRP recommended the IA to explore ways to screen and prioritize complaint cases. Possible factors to consider in the screening and prioritization of complaint cases might include the strength, complexity, severity, prevalence and anonymity (if applicable) of the cases and the availability of the IA's manpower.

3.5 The relevant operational procedures stated that a complaint could be considered closed "if no further response or new information is received from the complainant or other sources within two months² after the written reply to the complainant". The PRP observed in one case that the IA had no further role to play while the case was pending final adjudication by an external body and could have considered closing the case at the juncture instead of closing the case after the external body gave its decision. The PRP invited the IA to consider amending the relevant operation procedures such that cases which clearly required no further action from the IA could be considered closed to better reflect the actual processing time. Furthermore, for complaints against the IA and its staff, the case closure date was the date of issue of final reply instead of the closure time as stated above. The PRP suggested aligning the case closure time for all types of complaint cases for consistency.

3.6 The PRP noted that both anonymous and non-anonymous complaints would be closed in specified periods of time after the last correspondence with the complainants, but the definition of "last correspondence" was different in the two types of complaints. The PRP suggested adopting the same definition to achieve consistency.

3.7 In a case involving a broker which had failed to renew the complainant's motor insurance policy during the former self-explanatory regime, the PRP noted that the broker's failure might have involved criminal elements and could have serious consequences as the complainant may have inadvertently driven without a valid motor insurance policy, which was against the law. With a view to delivering enhanced service to the public, the PRP encouraged the IA to approach complaint cases from a wider

² In earlier versions of the relevant operational procedures, the duration was "three months" instead of "two months".

perspective and to be more sensitive to the complainants' position if the IA was to handle similar cases in the future. Taking the case reviewed as an example, the IA could have gone the extra mile and reminded the complainant to ensure that he possessed a valid motor insurance policy for compliance with the law and invited the complainant to consider seeking the involvement of the Police.

- 3.8 For complaints against the IA and its staff, there was a pledge of IA providing a written reply within 30 working days after receipt of the complaints³, while there was no similar pledge for other types of complaints. The PRP recommended the IA to consider setting up similar pledges for other types of complaints, where complaints of different levels of complexity or types could have different pledges, having regard to the experience accumulated by the IA in handling complaints and the availability of manpower.

Response from the IA

- 3.9 The IA welcomes these recommendations since a review is being conducted on its complaint handling processes taking into account actual experience gained after becoming the sole regulator of all licensed insurance intermediaries in Hong Kong.
- 3.10 On screening and prioritizing complaint cases, the IA has a statutory duty to promote and encourage adoption of proper conduct and to take disciplinary actions when justified. Given that there is roughly an equal number of cases related to conduct issues⁴ and contractual disputes (e.g. amount claimed or premiums charged) or operational efficiency, we will factor this into the review to ensure that priority is accorded to the former category.
- 3.11 Concerning paragraph 3.7, protection of policy holders is paramount. Notwithstanding that the case in question took place before the IA

³ If necessary, the IA could use more than 30 working days to offer a full written reply to the complainant, on the basis that the complainant was informed of the processing status in writing.

⁴ Such as mis-selling, misrepresentation, erroneous advice, unethical practices in arranging insurance, mishandling of client monies, etc.

took over from the former self-regulatory bodies, we should be able to adopt a holistic approach in advising complainants once resource optimization is done under the review mentioned in paragraph 3.9. The suggestion on case closure time and definition of complaints will be dealt with in the same context.

- 3.12 Finally, the IA endorses the idea of setting performance pledges to manage the expectation of complainants but must examine how and to what extent it could be done bearing in mind the varying level of complexity specific to each case and the need to allow reasonable response time for external parties.

(b) Authorization of insurers

Observations and recommendations

- 3.13 The PRP reviewed three cases related to the authorization of insurers, two of which were related to the authorization of new virtual insurers and the remaining case was related to the processing of an application from a traditional insurer to carry on additional class of business.
- 3.14 In contrast with traditional insurers, virtual insurers used solely digital distribution channels without insurance intermediaries. The PRP noted the IA's effort in the authorization of new virtual insurers, which encouraged wider application of Insurtech in Hong Kong and injected impetus to the enhancement of customer experience and competitiveness of the insurance industry.
- 3.15 The PRP observed that the authorization requirements applicable to virtual insurers were the same as traditional insurers and that the IA put emphasis on the long term commitment of the shareholders of insurers.
- 3.16 Regarding applications for authorization of virtual insurers, the PRP invited the IA to consider refining its authorization guidelines or other relevant documents such that information which the IA would

particularly seek (e.g. mitigation measures for risks prominent to virtual insurers) could be illustrated to applicants and potential applicants, facilitating the applicants' preparation and the IA's processing of applications.

Response from the IA

- 3.17 As a prudential regulator, it is incumbent upon the IA to ensure that all authorized insurers are capable of fulfilling the obligations owed to policyholders on an on-going basis, irrespective of their modes of operation and distribution channels.
- 3.18 Due to the nascent and bespoke nature of virtual insurers, we will beef up the authorization guidelines with relevant knowledge gained thus far, while continuing to establish direct communication with the applicants on a case-by-case basis.

(c) Processing of applications for intermediary licences

Observations and recommendations

- 3.19 The PRP reviewed 12 cases on applications for intermediary licences, covering applications submitted by individuals, insurance brokers and insurance agencies. The processing time of the cases reviewed ranged from two to nine months.
- 3.20 The PRP noted that there was a significant backlog of applications for intermediary licences after the IA had taken over the regulation of insurance intermediaries from the three former self-regulatory organisations ("SROs")⁵ on 23 September 2019. The long processing time of applications was eventually shortened with the wider adaptation of the IA's electronic application system by the industry and building up of the IA's internal capacity and experience.

⁵ There were three former SROs, namely, the Insurance Agents Registration Board under the Hong Kong Federation of Insurers, The Hong Kong Confederation of Insurance Brokers and the Professional Insurance Brokers Association.

- 3.21 The PRP opined that the IA could have better prepared for the expected influx of applications, e.g. enhancing promotion on the electronic application system, providing more training to the industry and allocating additional manpower to process the applications. Experience in this exercise could be applied to other large-scale exercises in the future.
- 3.22 For timely processing of the applications for intermediary licences, the PRP recommended the IA to encourage the use of information technology in the processing of applications and to allocate sufficient resources to handle the applications.
- 3.23 The PRP noted that applicants were given 3 months to respond to the enquiries of the IA or provide additional supporting documents. To shorten the processing time, the PRP invited the IA to consider whether different deadlines could be set up for different types of follow-up actions (e.g. tighter deadlines for simpler follow-up actions). Furthermore, in addition to the existing reminder generated by the electronic application system to the applicants after 2 months of inactivity by the applicants, the PRP invited the IA to consider setting up additional system generated reminders (e.g. after 1 month of inactivity) and proactively reminding the applicants by phone calls after some periods of inactivity.
- 3.24 The PRP noted that the IA did not charge fees for applications for intermediary licences but planned to do so in future. The PRP recommended the IA to list out clearly the fees under different situation, e.g. when the applications were successful, rejected and returned to the applicants and ensure that the industry/applicants understand the fees arrangements.

Response from the IA

- 3.25 The IA has taken full advantage of the initial logistical difficulties to boost up usage of the e-portal and empower different sections in the Market Conduct Division with a broader skill set. This bodes well for the renewal exercise of deemed licensees, and early planning is

being made to keep the industry closely engaged through regular briefings and trial runs.

- 3.26 On the proposed setting up of different deadlines catering for various follow-up actions, generation of system messages and making of phone calls to remind active applicants, we will explore them in the form of functionalities and complementary support to the e-portal.
- 3.27 The imposition of licence fees on intermediaries has to be done by subsidiary legislation made under the Insurance Ordinance, offering ample room for consultation and clarification on relevant details. This will take place in 2024.

(d) Exercise of statutory powers of inspection

Observations and recommendations

- 3.28 The PRP reviewed three cases related to the inspection conducted by the IA, where the inspected parties were an insurance broker, insurer and insurance agency respectively. The PRP noted that the IA adopted a risk-based approach and would conduct inspection on selected regulatees identified as bearing higher risks, while conducting other forms of monitoring on those identified as bearing lower risks.
- 3.29 In one case, the PRP noted that the IA had spent a relatively long period of time (i.e. seven months) to draft a “Management Letter”⁶ to the broker concerned, during which the IA had to handle heightened workload arising from the taking over of the regulation of insurance intermediaries. For enhanced prudential regulation, the PRP recommended the IA to allocate more manpower, where possible, to inspection work such that more regulatees could be inspected and inspection work could be conducted more quickly.

⁶ As part of the inspection work, the IA would send a “Management Letter”, which summarized the findings from the inspection, the applicable legal and regulatory requirements and any expectations that IA might have (e.g. required remediation within a specific timeframe) to the regulatee for follow-up.

Furthermore, the PRP suggested exploring whether the deployment of information technology could enhance its efficiency in inspection, monitoring and other enforcement work.

Response from the IA

- 3.30 To achieve the twin objectives of maintaining effective oversight and inculcating a mindset of probity, the IA has promulgated circulars from time to time conveying its regulatory expectation.
- 3.31 The IA strives to flexibly deploy manpower for maximum synergies and resource optimization. Although temporary deployment of staff to cope with the backlog of licence applications and disruptions caused by COVID-19 are partly accountable for the delay cited in paragraph 3.29, we will devote greater attention to this area of work once the renewal exercise of deemed licensees is completed in 2022.
- 3.32 Leveraging on popularity gained by the e-portal, the IA has drawn up a five-year strategy to revamp its information technology systems and infrastructure to keep pace with evolving requirements.

Chapter 4: Way Forward

4.1 The PRP is pleased to note the IA's positive response to the PRP's recommendations. Looking forward, the PRP will continue its review work to ensure the adequacy of the IA's internal procedures and operational guidelines.

4.2 The PRP welcomes the views of the public and market participants on the work of the PRP. Comments relating to the PRP's work can be referred to the Secretariat of the PRP via the following channels⁷

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By post : Secretariat of the Process Review Panel for the
Insurance Authority

24th Floor, Central Government Offices
2 Tim Mei Avenue
Tamar

By email : prpia@fstb.gov.hk

⁷ Inquiries or comments not relating to the process review work of the IA should be made to the IA direct –

By post : Insurance Authority, 19/F, 41 Heung Yip Road, Wong Chuk Hang,
Hong Kong

By telephone : (852) 3899 9983

By fax : (852) 3899 9993

By email : enquiry@ia.org.hk

Chapter 5: Acknowledgement

- 5.1 The PRP would like to express its gratitude to the IA for its assistance in facilitating the review work, and its co-operation in responding to the PRP's inquiries and recommendations.

**Process Review Panel for the Insurance Authority
September 2021**