

## LEGISLATIVE COUNCIL BRIEF

### Insurance Companies Ordinance (Chapter 41)

## INSURANCE COMPANIES (AMENDMENT) BILL 2014

### INTRODUCTION

A

At the meeting of the Executive Council on 8 April 2014, the Council ADVISED and the Chief Executive ORDERED that the Insurance Companies (Amendment) Bill 2014 (“the Bill”), at **Annex A**, should be introduced into the Legislative Council (“LegCo”) to provide for, among other things, the establishment of the independent Insurance Authority (“IA”) and a statutory licensing regime for insurance intermediaries to replace the existing self-regulatory system.

### JUSTIFICATIONS

2. The establishment of the IA is the most important regulatory reform in the insurance sector in the past 30 years since the passage of the Insurance Companies Ordinance (“ICO”) in 1983. The policy objectives of setting up the IA are to modernize the insurance industry regulatory infrastructure to facilitate the stable development of the industry, provide better protection for policyholders, and comply with the requirement of the International Association of Insurance Supervisors (“IAIS”) that insurance regulators should be financially and operationally independent of the government and industry.

3. The two major aspects of the regulatory functions of an insurance regulator are (a) prudential regulation of insurers to ensure that they are financially sound and (b) conduct regulation of insurers and insurance intermediaries to ensure that the sale and after-sale administration of insurance policies (e.g. policy renewal or insurance claims) are conducted honestly, fairly and professionally. There is an urgency to set up an operationally nimble insurance regulator to cope with regulatory challenges on both fronts.

4. On prudential regulation, the challenges in the coming years are to implement a Risk-based Capital framework for insurers and observe the IAIS's requirements on macro-prudential surveillance, group-wide supervision and corporate governance of insurers. All these initiatives require the regulator to have operational flexibility to recruit legal, accounting and actuarial talents to enhance its regulatory capacity. On conduct regulation, there has been rising public expectation of robust oversight of insurance intermediaries, especially when insurance products are getting more sophisticated and diversified (such as the availability of various kinds of annuities for retirement planning in light of our ageing population). We need to set up an independent regulatory regime for insurance intermediaries to replace the existing self-regulatory system administered by the three Self-regulatory Organizations ("SROs")<sup>1</sup> to strengthen public confidence in the insurance industry.

## PROPOSED LEGISLATIVE AMENDMENTS

5. Since launching the first consultation on IIA in 2010, we have been actively engaging the industry and other stakeholders. We have refined our original proposals after taking into account market feedback as well as international developments. A table summarizing these refinements is at **Annex B**. In the process, we have taken into account the need of –

B

- (a) enhancing consumer protection and education to promote public confidence in and understanding of insurance;
- (b) promoting professionalism of insurance intermediaries;
- (c) avoiding unnecessary regulatory burden that would hinder business growth and innovation;
- (d) minimizing any disruption and uncertainties during the transition to the new regulatory regime;
- (e) maintaining fairness, effectiveness and transparency of the regulatory process; and
- (f) fulfilling international obligations.

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<sup>1</sup> The three SROs are the Insurance Agents Registration Board ("IARB") established under the Hong Kong Federation of Insurers ("HKFI"), the Hong Kong Confederation of Insurance Brokers, and the Professional Insurance Brokers Association.

Major aspects of the legislative proposals are set out in paragraphs 6 to 19.

### *Functions of the IIA*

6. Insurance has the social value of cushioning the public financially against unfortunate events. We expect the IIA to work with the insurance industry to promote healthy and sustainable development of the insurance industry. In addition to promoting best practices among insurance practitioners, it is equally significant to educate the public on the nature of insurance, features of particular insurance products and assessment of insurance needs against various risks. Based on these considerations and industry feedback, we have proposed some new functions for the IIA, in addition to the existing functions of the Office of the Commissioner of Insurance (“OCI”) –

- (a) facilitating sustainable market development of the insurance industry;
- (b) promoting understanding by policyholders and potential policyholders of insurance products and the insurance industry; and
- (c) conducting studies relevant to the insurance industry with a view to sharing the research findings with the industry.

C The proposed statutory functions of the IIA are at **Annex C**.

### *Governance and Funding Mechanism*

7. The IIA will be a body corporate with perpetual succession comprising a chairperson, a chief executive officer and not less than six directors all appointed by the Chief Executive (“CE”). At least two directors should be persons with knowledge of or experience in the insurance industry. To ensure that the IIA is financially independent of the Government, we propose that the IIA should be financed by fees payable by insurers and insurance intermediaries, user fees for providing specific services by the IIA<sup>2</sup>, and a levy of 0.1% on insurance premiums

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<sup>2</sup> For example, fees charged by the IIA for processing insurers’ application for change of class of business. Licence fees for insurance intermediaries will be waived for the first five years. We estimate that after the first five years, the licence fees charged by the IIA would be comparable to the ones charged by the SROs now, i.e. \$410 for an insurance agent/agency and around \$7,000 for an insurance broker company.

for all insurance policies<sup>3</sup>.

### *Licensing of Insurance Intermediaries and Transitional Arrangements*

8. Under the new regime, a person requires a licence granted by the IIA to carry on “regulated activities”, which are defined to cover activities in relation to giving advice on insurance and sale and after-sale administration of insurance policies (e.g. policy renewal or insurance claims), in the course of their business or employment or for reward, with certain exemptions (e.g. lawyers and accountants providing regulated advice wholly incidental to their professional practice, and clerical or administrative staff of an insurance company).

9. The categorization of licences will mirror the existing five categories of registration under the self-regulatory system to ensure a smooth transition, as follows –

	<b>Insurance agent</b>	<b>Insurance broker</b>
<b>Licence to business entities</b>	(1) licensed insurance agencies	(2) licensed insurance broker companies
<b>Licence to individuals</b>	(3) licensed individual insurance agents (4) licensed technical representatives (agent)	(5) licensed technical representatives (broker)

10. More than 80,000 insurance intermediaries, including individuals and companies, are currently registered with the three SROs. For a smooth transition to minimize possible disruption to insurance intermediaries’ business and service to existing policyholders, we propose that all pre-existing insurance intermediaries validly registered with the SROs before the commencement of the statutory licensing regime should be deemed as licensees under the new regime for three years. We have established a Working Group with members from the insurance industry to work out detailed transitional arrangements.

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<sup>3</sup> The IIA will adopt an incremental approach in achieving the target level of levy in the first five years after its establishment, in accordance with the following schedule –

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Market levy as a % on insurance premiums	0.04%	0.05%	0.06%	0.07%	0.085%	0.1%

The levy will be subject to a cap of \$100 per life insurance policy and \$5,000 per non-life insurance policy in a year.



### *Conduct Regulation*

11. Fair and credible regulation of the conduct of insurance intermediaries will enhance public confidence in insurance which will in turn be conducive to the sustainable development of the insurance industry. In general, conduct regulation aims to ensure that insurance intermediaries act professionally, fairly and honestly, and that the licensees are fit and proper persons, e.g., they are professionally competent, financially sound and have a good track record of legal and regulatory compliance.

12. We propose that broad and commonly-adopted principles of conduct requirements for insurance intermediaries be set out in the primary legislation and details in subsidiary legislation and non-statutory codes and guidelines.

13. We also propose that a licensed insurance agency or a licensed broker company should be required to appoint at least one responsible officer (“RO”) who should ensure that internal control systems and procedures are in place to promote compliance with conduct requirements within a body corporate. The appointment of an RO is subject to the IIA’s approval based on the fit and proper criteria such as professional competence, financial soundness and record of legal and regulatory compliance.

### *Regulatory Powers of the IIA*

14. Similar to other financial regulators in Hong Kong, the IIA will be vested with appropriate powers of inspection, investigation and imposing disciplinary sanctions including reprimand, fines, suspension or revocation of licence of insurance intermediaries or authorization of insurers; as well as prohibition of licence application of insurance intermediaries in relation to a regulated activity or authorization application of insurers for any class of insurance business in a specified period. As safeguards, the IIA will be statutorily required to publish guidelines on fines<sup>4</sup> and its disciplinary decisions will be appealable to an independent quasi-judicial body, the Insurance Appeals Tribunal (“IAT”) (see paragraph 18).

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<sup>4</sup> We will remind the IIA to ensure that the guidelines will set out all the major factors that the IIA must take into account in exercising its fining power, including the principle of proportionality, not putting a person into financial jeopardy, etc.

15. Under the existing ICO, the appointed actuary, directors and controllers of an insurer are already subject to regulatory scrutiny to promote good corporate governance. To comply with the IAIS's requirements, we will update the relevant provisions to vest in the IIA the power to approve the appointment of senior executives who carry out "control functions" based on fit and proper criteria. Such "control functions" cited by the IAIS include risk management, compliance, actuarial matters, and internal audit.

#### *Banks' insurance intermediary activities*

16. At present, banks also operate insurance agency services through their retail networks. Given the integrated asset and wealth management services offered by banks, as well as the Hong Kong Monetary Authority ("HKMA")'s role as the primary and lead regulator of banks, we propose that, subject to the approval of the CE in Council, the IIA may delegate its powers of inspection and investigation to HKMA for the frontline regulation of banks' insurance intermediary activities. After delegation, the IIA may exercise such powers concurrently, say, for conducting joint on-site inspections with HKMA to ensure regulatory consistency. The two regulators will have to establish various collaborative arrangements including the signing of a Memorandum of Understanding on regulatory cooperation, reciprocal staff secondment, regular liaison meetings, etc. The IIA will remain the single authority to set regulatory requirements, to grant licences and to impose disciplinary sanctions. We hope to minimise any regulatory overlap and bridge any gap through these regulatory arrangements, with a view to ensuring a level playing field for banks and non-bank agents and affording reasonable protection for policyholders.

#### *Checks and Balances*

17. We attach great importance to the accountability of the IIA. At the governance level, the Bill stipulates that the IIA will comprise a majority of non-executive directors in order to ensure effective oversight of executive decisions. It prescribes that certain powers of the IIA will be non-delegable, e.g. the power to make subsidiary legislation. The IIA's budget and corporate plan will be subject to approval by the Financial Secretary. The Director of Audit may conduct value for money audit on the IIA whereas IIA's practices and procedures are subject to examination by the Independent Commission Against Corruption.

18. At the regulatory level, the Bill requires the IIA to consult the industry before introducing new regulatory requirements via rules which are subsidiary legislation. Its regulatory decisions, including licensing, authorization and disciplinary decisions are subject to review by the statutory IAT to be chaired by a person qualified to be appointed as a High Court judge. The IAT may confirm, vary or set aside any such decisions of the IIA. In addition, the internal process and procedures of the IIA in exercising regulatory powers will be reviewed by an independent Process Review Panel to be established by the CE. A list of safeguards are set out at **Annex D**.

D

#### *Removal of outdated regulatory requirement*

19. We have taken the opportunity of this legislative amendment exercise to review if there is any outdated regulatory requirement. Under the existing self-regulatory regime for insurance intermediaries, the insurers are laden with certain statutory responsibilities for supervising insurance agencies and agents. Failure to fulfil these responsibilities is a criminal offence. For example, an insurer is required to keep a register of insurance agents appointed by it, comply with the Code of Practice for the administration of insurance agents published by the HKFI, and follow up a complaint referred to it by the IARB established under the HKFI (including investigation, reporting findings of investigation to the IARB and taking disciplinary action as required by the IARB). With the ascent of a statutory licensing regime for insurance intermediaries, such statutory responsibilities imposed on insurers will become outdated and should therefore be removed.

## **THE BILL**

20. The main provisions of the Bill are set out as follows –

- (a) **Clauses 9 to 15** of the Bill add a new Part IA to the ICO which provides for the establishment and functions of, and accounting and financial arrangements for, the IIA;
- (b) **Clauses 16 to 30** of the Bill amend the existing Part II of the ICO. In particular, new provisions are added to require an authorized insurer to obtain the IIA's prior approval on the appointment of a controller, director or key person in control functions of the insurer. The IIA is empowered to revoke the approval of the appointment if the IIA is satisfied that the officer is no longer a fit and proper person;

- (c) **Clauses 31 to 54** of the Bill amend the existing Parts III, IV and V of the ICO to further provide for better corporate governance of an authorized insurer, for example, to shorten the period within which an authorized insurer must deposit its account with the IIA and to require an authorized insurer to maintain separate accounts for each part of its long term business;
- (d) **Clause 55** of the Bill adds a new Part VA to the ICO. The new Part gives the IIA powers to conduct investigations in respect of authorized insurers' contraventions of the provisions of the ICO. It also enables the IIA to take disciplinary actions against an authorized insurer, including revoking or suspending the authorization of an authorized insurer;
- (e) **Clauses 64 to 69** of the Bill amend the existing Part VIIIA of the ICO. Members and employees of the IIA must preserve secrecy with regard to matters that come to their knowledge in the performance of functions under the ICO. The IIA may disclose to overseas regulatory authorities information on matters relating the affairs of licensed insurance intermediaries;
- (f) **Clauses 71 to 83** of the Bill amend the existing Part X of the ICO. New Division 2 of Part X sets out certain restrictions. In particular, new section 64G of the ICO provides that it is an offence for a person who is not a licensed insurance intermediary to carry on any regulated activity or to hold out as a licensed insurance intermediary. New Division 3 of Part X provides for granting licences to an insurance agency, individual insurance agent, technical representative (agent), insurance broker company and technical representative (broker) and granting approval to a responsible officer of a licensed insurance agency and licensed insurance broker company. New Division 4 of Part X gives the IIA powers to conduct investigations in respect of licensed insurance intermediaries' contravention of the provisions of the ICO;
- (g) **Clause 84** of the Bill adds new Parts XI to XIV to the ICO;
- (h) The new **Part XI** enables the IIA to take disciplinary actions against a licensed insurance intermediary and responsible officer. It also sets out the conduct requirements;
- (i) The new **Part XII** provides for the IAT which has jurisdictions to review certain decisions made by the IIA. An affected person may apply for leave to appeal against the IAT's determination to

the Court of Appeal;

- (j) The new **Part XIII** provides for miscellaneous provisions, including provisions on immunity. The new section 126 provides that the CE in Council may by regulations provide for the payment of fees for an application under the ICO. The new sections 127 and 131 empower the IIA to make rules and publish codes and guidelines;
- (k) The new **Part XIV** of, and new **Schedule 11** to, the ICO provide for the necessary savings, transitional and supplemental provisions;
- (l) **Clause 86** adds new Schedules 1A, 1B, 1C and 1D to the ICO. New Schedule 1A sets out the acts that are regarded as regulated activities and the matters that are regarded as material decisions and regulated advice. New Schedule 1B sets out the constitution and proceedings of the IIA. New Schedule 1C sets out the constitution and proceedings of an industry advisory committee. New Schedule 1D sets out the functions of the IIA that are non-delegable;
- (m) **Part 3** of the Bill contains related and consequential amendments to several Ordinances.

## LEGISLATIVE TIMETABLE

21. The legislative timetable will be as follows –

Publication in the Gazette	25 April 2014
First Reading and commencement of Second Reading debate	30 April 2014
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

## IMPLICATIONS OF THE PROPOSAL

22. The Bill is in conformity with the Basic Law, including the provisions concerning human rights. The proposal has economic, financial and civil service implications as set out in **Annex E**.

E

Specifically, we propose to abolish the Insurance Officer grade and transfer the functions of the OCI to the IIA on establishment of the IIA; and to make a lump sum provision of \$500 million to the IIA to facilitate its initial operations. The proposal has no productivity, environmental, family or sustainability implications. The amendments proposed in the Bill will not affect the current binding effect of the ICO.

## **PUBLIC CONSULTATION**

23. Following the public consultation on the framework of establishing the IIA in 2010, we published the consultation conclusions and detailed proposals in 2011 for further industry engagement. We consulted the public on key legislative proposals for the establishment of the IIA from October 2012 to January 2013. We announced the consultation conclusions in June 2013 and briefed the LegCo Panel on Financial Affairs on 5 July 2013. We have also consulted the Insurance Advisory Committee eight times between 2009 and 2013.

## **PUBLICITY**

24. We will issue a press release and organize a press briefing on 16 April 2014. We will arrange a spokesperson to answer media enquiries.

## **ENQUIRIES**

25. Enquiries relating to the brief can be directed to Mr Paul Wong, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) at 2810 2201.

**Financial Services and the Treasury Bureau**  
**16 April 2014**

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# A BILL To

Amend the Insurance Companies Ordinance to establish the Insurance Authority (as a body corporate) and the Insurance Appeals Tribunal; provide for the enforcement powers of, and fees and levies payable to, the Insurance Authority; provide for better corporate governance of authorized insurers; provide for a licensing system and conduct requirements for insurance intermediaries; and provide for transitional and other related matters.

Enacted by the Legislative Council.

## Part 1

### Preliminary

#### 1. Short title and commencement

- (1) This Ordinance may be cited as the Insurance Companies (Amendment) Ordinance 2014.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

#### 2. Enactments amended

- (1) The enactments specified in Parts 2 and 3 are amended as set out in those Parts.
- (2) The provisions set out in column 1 of an item of Schedules 1 and 2 are amended by repealing the words and characters set

out in column 2 of that item and substituting the words and characters set out in column 3 of that item.

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## Part 2

### Amendments to Insurance Companies Ordinance (Cap. 41)

#### 3. Long title substituted

The long title—

**Repeal the long title**

**Substitute**

“To regulate the carrying on of insurance business; to establish the Insurance Authority (as a body corporate) to regulate the insurance industry for protecting policy holders and potential policy holders and for promoting the stable development of the insurance industry; and to provide for related matters.”.

#### 4. Section 1 amended (short title)

Section 1—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

#### 5. Section 2 amended (interpretation)

(1) Section 2(1), definition of *Advisor*—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

(2) Section 2(1), definition of *authorized*—

**Repeal**

“or deemed under section 61(1) or (2) to be so authorized”

**Substitute**

“or deemed to be so authorized under section 61(1) or (2) of the pre-amended Ordinance having continuing effect by the operation of section 2(7) of Schedule 11”.

(3) Section 2(1)—

**Repeal the definition of *client monies***

**Substitute**

“*client monies* (客戶款項), in relation to a licensed insurance broker company, means the monies of the company specified in section 71(2);”.

(4) Section 2(1), definition of *controller*, before “has the meaning”—

**Add**

“, except in Parts X and XI,”.

(5) Section 2(1), definition of *former accountant*—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

(6) Section 2(1), definition of *former actuary*—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

(7) Section 2(1)—

**Repeal the definition of *former auditor***

**Substitute**

“*former auditor* (前任核數師)—

- (a) in relation to an authorized insurer;
- (b) in relation to a former insurer;
- (c) in relation to a licensed insurance broker company;
- (d) in relation to a former licensed insurance broker company; or
- (e) in relation to a person who was formerly an authorized insurance broker within the meaning of the pre-amended Ordinance,

means a person who was formerly the auditor of that insurer, company or person;”.

(8) Section 2(1), definition of *former insurer*—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

(9) Section 2(1), English text, definition of *long term business*—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

(10) Section 2(1), definition of *Manager*—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

(11) Section 2(1), definition of *prescribed*—

**Repeal**

“59”

**Substitute**

“126 or rules made under section 127”.

(12) Section 2(1)—

**Repeal the definition of *prescribed person***

**Substitute**

“*prescribed person* (訂明人士) means—

- (a) an auditor, former auditor, actuary or former actuary—
  - (i) of an authorized insurer or a former insurer; and
  - (ii) appointed under section 15 or paragraph 4(1A) of Part 1 of Schedule 3;
- (b) an accountant, former accountant, actuary or former actuary—
  - (i) of an authorized insurer or a former insurer; and
  - (ii) appointed by the insurer or former insurer in compliance with a requirement under section 35(1); or
- (c) an auditor or former auditor of—
  - (i) a licensed insurance broker company;



- (ii) a former licensed insurance broker company;  
or
- (iii) a person who was formerly an authorized insurance broker within the meaning of the pre-amended Ordinance;”.

## (13) Section 2(1)—

- (a) definition of *appointed insurance agent*;
- (b) definition of *authorized insurance broker*;
- (c) definition of *code of practice*;
- (d) definition of *insurance agent*;
- (e) definition of *Insurance Authority*;
- (f) definition of *insurance broker*;
- (g) definition of *insurance intermediary*;
- (h) definition of *working day*—

**Repeal the definitions.**

## (14) Section 2(1)—

**Add in alphabetical order**

“**Amendment Ordinance** (《修訂條例》) means the Insurance Companies (Amendment) Ordinance 2014 ( of 2014);

**Authority** (保監局) means the body corporate established under section 4AAA(1);

**authorized institution** (認可機構) has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155);

**client account** (客戶帳戶), in relation to a licensed insurance broker company, means the account maintained by the company as referred to in section 71(1)(b) for holding client monies;

**former authority** (前監督) means the Insurance Authority appointed under section 4 of the pre-amended Ordinance;

**licensed individual insurance agent** (持牌個人保險代理) means an individual who is granted a licence under section 64W;

**licensed insurance agency** (持牌保險代理機構) means a person who is granted a licence under section 64U;

**licensed insurance agent** (持牌保險代理人) means—

- (a) a licensed insurance agency;
- (b) a licensed individual insurance agent; or
- (c) a licensed technical representative (agent);

**licensed insurance broker** (持牌保險經紀) means—

- (a) a licensed insurance broker company; or
- (b) a licensed technical representative (broker);

**licensed insurance broker company** (持牌保險經紀公司) means a company which is granted a licence under section 64ZA;

**licensed insurance intermediary** (持牌保險中介人) means—

- (a) a licensed insurance agent; or
- (b) a licensed insurance broker;

**licensed technical representative (agent)** (持牌業務代表(代理人)) means an individual who is granted a licence under section 64Y;

**licensed technical representative (broker)** (持牌業務代表(經紀)) means an individual who is granted a licence under section 64ZC;

**Mandatory Provident Fund Schemes Authority** (積金局) means the Mandatory Provident Fund Schemes

Authority established under section 6 of the Mandatory Provident Fund Schemes Ordinance (Cap. 485);

**material decision** (關鍵決定)—see section 3A;

**Monetary Authority** (金融管理專員) means the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap. 66);

**pre-amended Ordinance** (《原有條例》) means this Ordinance as in force immediately before the commencement date of section 10 of the Amendment Ordinance;

**prescribed fee** (訂明費用), in relation to any matter, means the fee payable under this Ordinance in relation to the matter and prescribed by a regulation made under section 126;

**public** (公眾) means the public of Hong Kong, and includes any class of that public;

**regulated activity** (受規管活動)—see section 3A;

**regulated advice** (受規管意見)—see section 3A;

**responsible officer** (負責人)—

(a) in relation to a licensed insurance agency, means an individual who is approved by the Authority as a responsible officer of the agency under section 64ZE; or

(b) in relation to a licensed insurance broker company, means an individual who is approved by the Authority as a responsible officer of the company under section 64ZF;

**Securities and Futures Commission** (證監會) means the Securities and Futures Commission referred to in section 3(1) of the Securities and Futures Ordinance (Cap. 571);

**Tribunal** (審裁處) means the tribunal established under section 95.”

(15) After section 2(2)—

**Add**

“(2A) In this Ordinance—

(a) a reference to a function includes a power and a duty; and

(b) a reference to the performance of a function includes the exercise of a power and the discharge of a duty.”

(16) Section 2(7)(a)—

**Repeal**

“carries on”

**Substitute**

“is authorized to carry on”.

## 6. Section 3 amended (classes of insurance business)

Section 3(1) and (2), English text—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

## 7. Section 3A added

After section 3—

**Add**

### “3A. Regulated activity, material decision and regulated advice

For the purposes of this Ordinance—

- (a) a person carries on a regulated activity if the person does an act specified in Part 1 of Schedule 1A;
- (b) a person makes a material decision if the person makes a decision in relation to a matter specified in Part 2 of Schedule 1A; and
- (c) a person gives regulated advice if the person gives an opinion in relation to a matter specified in Part 3 of Schedule 1A.”.

**8. Part IA heading and Division 1 heading added**

Before section 4—

**Add**

**“Part IA**

**Insurance Authority**

**Division 1—Establishment and Functions, etc.”.**

**9. Section 4AAA added**

Before section 4—

**Add**

**“4AAA. Establishment of Authority**

- (1) A body corporate is established with the corporate name of “Insurance Authority” in English and “保險業監管局” in Chinese.
- (2) The Authority is renamed as “Provisional Insurance Authority” in English and “臨時保險業監管局” in Chinese during the period—

- (a) beginning immediately after the establishment of the body corporate under subsection (1); and
  - (b) ending immediately before the date on which section 10 of the Amendment Ordinance comes into operation.
- (3) The Authority—
- (a) has perpetual succession under its corporate name;
  - (b) is required to have a common seal; and
  - (c) is capable of suing and being sued in its corporate name.
- (4) To avoid doubt, the renaming of the Authority under this section does not—
- (a) affect any rights or obligations of the Authority; or
  - (b) render defective any legal proceedings by or against the Authority.
- (5) On and after the expiry of the period specified in subsection (2), any legal proceedings that could have been commenced or continued against the Authority by its corporate name of “Provisional Insurance Authority” may be commenced or continued against the Authority by its corporate name of “Insurance Authority”.
- (6) During the period specified in subsection (2), section 53A(1) applies to the Authority and a person who is or has been a member, employee, agent, consultant or advisor of the Authority as if after section 53A(1AA)(b), the following were added—
- “(baa) the Authority;
  - (baab) a person who is or has been a member, employee, agent, consultant or advisor of the Authority;”.

**10. Section 4 amended (Insurance Authority)**

Section 4—

**Repeal subsection (1).****11. Section 4AA added**

After section 4—

**Add****“4AA. Composition of Authority**

- (1) The Authority consists of the following members who are to be appointed by the Chief Executive—
  - (a) a chairperson, who is a non-executive director of the Authority;
  - (b) a chief executive officer, who is an executive director of the Authority;
  - (c) not less than 6 other executive or non-executive directors of the Authority.
- (2) The number of non-executive directors must exceed the number of executive directors.
- (3) Of the non-executive directors—
  - (a) at least 2 are to be appointed from among persons who, because of their knowledge of and experience in the insurance industry, appear to the Chief Executive to be suitable for appointment; and
  - (b) the others are to be appointed from among persons who, either because of their knowledge in actuarial science, accountancy, law or consumer affairs, or because of their professional or occupational experience, appear to the Chief Executive to be suitable for appointment.

- (4) The Authority may perform its functions despite a vacancy in its membership.
- (5) If this section ceases to be complied with, the Chief Executive must as soon as practicable make the necessary appointment to ensure that the requirements of this section are complied with.
- (6) Schedule 1B contains provisions on the constitution and proceedings of, and other matters relating to, the Authority.”.

**12. Section 4A amended (functions of Insurance Authority)**

- (1) Section 4A(2)—

**Repeal paragraph (a)****Substitute**

“(a) be responsible for supervising an authorized insurer’s and a licensed insurance intermediary’s compliance with the provisions of this Ordinance;”.

- (2) Section 4A(2)—

**Repeal paragraphs (c) and (d)****Substitute**

- “(c) promote and encourage the adoption of proper standards of conduct and sound and prudent business practices by authorized insurers;
- (d) promote and encourage the adoption of proper standards of conduct by licensed insurance intermediaries;
- (da) review and, if necessary, propose reforms of the systems for regulating authorized insurers and licensed insurance intermediaries;”.

- (3) Section 4A(2)—

**Repeal paragraph (e).**

## (4) Before section 4A(2)(f)—

**Add**

- “(ea) regulate the conduct of insurance intermediaries through a licensing regime;
- (eb) promote the understanding by policy holders and potential policy holders of insurance products and the insurance industry;
- (ec) formulate effective regulatory strategies and facilitate the sustainable market development of the insurance industry, and promote the competitiveness of the insurance industry in the global insurance market;
- (ed) conduct studies into matters affecting the insurance industry;
- (ee) assist the Financial Secretary in maintaining the financial stability of Hong Kong by taking appropriate measures in relation to the insurance industry;”.

## (5) Section 4A(2)(g)—

**Repeal**

“exercise”

**Substitute**

“perform”.

## (6) Section 4A—

**Repeal subsection (3).****13. Sections 4B to 4H added**

After section 4A—

**Add****“4B. Powers of Authority**

- (1) The Authority may do anything that is necessary for, or incidental or conducive to, performing any of its functions.
- (2) Without limiting subsection (1), the Authority may—
  - (a) hold, acquire, lease, sell, charge, dispose of or otherwise deal with all kinds of property, whether movable or immovable;
  - (b) enter into, carry out, assign, accept the assignment of, vary or rescind any contract, agreement, memorandum of understanding or other obligation;
  - (c) with the approval of the Financial Secretary, borrow money on security or other conditions;
  - (d) receive and expend monies;
  - (e) accept gifts;
  - (f) publish or otherwise make available materials on any matter relating to the performance by the Authority of any of its functions;
  - (g) establish wholly-owned subsidiaries;
  - (h) invest, in the manner approved by the Financial Secretary, its funds that are not required for immediate use;
  - (i) do all things that the Authority thinks fit for its administration and management; and
  - (j) exercise other powers that are conferred on the Authority under this Ordinance or any other Ordinance.

**4C. Industry advisory committees**

- (1) The Authority must appoint an industry advisory committee to advise it on any matters it refers to the committee in relation to long term business.
- (2) The Authority must also appoint another industry advisory committee to advise it on any matters it refers to the committee in relation to general business.
- (3) The Authority may, after consulting the Financial Secretary, establish additional industry advisory committees to advise it on any matters regarding the performance of any of its functions (other than matters in relation to long term business and general business).
- (4) Each industry advisory committee is constituted in accordance with Schedule 1C and must conduct its business in accordance with that Schedule.

**4D. Authority may establish other committees**

- (1) The Authority may establish one or more committees to assist it in a matter with which the Authority is concerned.
- (2) The Authority may refer a matter to a committee established under this section (*committee*) for consideration, inquiry or management.
- (3) The Authority—
  - (a) may appoint a person to be a member of a committee, whether or not the person is a member of the Authority; and
  - (b) may appoint a member of the committee to be the chairperson of the committee.
- (4) A reference of a matter to a committee does not prevent the Authority from performing any of its functions.

**(5) The Authority—**

- (a) may withdraw a reference under subsection (2) from a committee; and
  - (b) may revoke an appointment under subsection (3).
- (6) The Authority may give directions to a committee, whether generally or in a particular case, and whether regarding the manner in which the committee is to act or otherwise.
  - (7) The committee must act in accordance with those directions.

**4E. Staff and consultants of Authority**

- (1) The Authority may employ persons for the remuneration and allowances, and on the terms and conditions, that the Authority determines.
- (2) The Authority may provide and maintain schemes (whether contributory or not) for the payment of retirement benefits, gratuities or other allowances to its employees and their dependants.
- (3) The Authority may engage consultants, agents and advisors to assist it in performing its functions.

**4F. Delegation of Authority's functions to its members, committees and employees**

- (1) Subject to subsection (2), the Authority may delegate any of its functions to—
  - (a) a member of the Authority;
  - (b) a committee established under section 4D; or
  - (c) an employee of the Authority, whether by reference to the name of the employee or to the office held by the employee.

- (2) A delegation must not be made—
  - (a) in relation to the power of the Authority to delegate under this section; or
  - (b) in relation to a function specified in Schedule 1D.
- (3) If the Authority delegates a function, it may at the same time authorize the delegate to sub-delegate the function.
- (4) The Authority may—
  - (a) revoke a delegation, or an authorization for a sub-delegation;
  - (b) attach restrictions or conditions to a delegation; or
  - (c) attach restrictions or conditions to an authorization for a sub-delegation, including those on the exercise of the power to sub-delegate.
- (5) A delegation does not prevent the Authority from concurrently performing the function delegated. A delegation and sub-delegation does not prevent the Authority or a delegate, or both, from concurrently performing the function delegated or sub-delegated.
- (6) If a person or a committee purports to act under a delegation or sub-delegation, the person or the committee is presumed, unless the contrary is proved, to be acting in accordance with the terms of the delegation or sub-delegation.
- (7) Without affecting subsection (5), if there is a delegation or sub-delegation in relation to a function of the Authority, a reference in this Ordinance or any other Ordinance to the Authority in connection with the performance of the function is, unless the context otherwise requires, to be construed accordingly.

#### **4G. Delegation of certain powers of Authority to Monetary Authority**

- (1) The Authority may, subject to the approval of the Chief Executive in Council, delegate its powers under sections 64ZZF(6) and 64ZZH(1) to the Monetary Authority in relation to a business of a regulated activity carried on by an authorized institution.
- (2) The Chief Executive in Council may, after consultation with the Authority and the Monetary Authority—
  - (a) impose conditions on the approval of a delegation;
  - (b) vary any of the conditions of the approval of a delegation; or
  - (c) withdraw the approval of a delegation.
- (3) Without affecting subsection (2)(c), the Authority may, after consultation with the Monetary Authority, revoke a delegation under subsection (1).
- (4) A revocation of a delegation under subsection (3) takes effect when the Chief Executive in Council notifies the Authority and the Monetary Authority that the approval of the delegation has been withdrawn under subsection (2)(c).
- (5) A delegation does not prevent the Authority from concurrently performing the function delegated. A delegation does not prevent the Authority or a delegate, or both, from concurrently performing the function delegated.
- (6) If the Monetary Authority purports to act under a delegation, the Monetary Authority is presumed, unless the contrary is proved, to be acting in accordance with the terms of the delegation.

- (7) If there is a delegation in relation to a power of the Authority, the delegation includes—
  - (a) the delegation of a power incidental to, or connected with, the delegation; and
  - (b) the delegation of a duty incidental to, or connected with, the delegation.
- (8) Without affecting subsection (5), if the powers under sections 64ZZF(6) and 64ZZH(1) are delegated to the Monetary Authority under subsection (1), the provisions of this Ordinance are to operate as if—
  - (a) in the definition of *investigator* in section 64F, the words “Monetary Authority” were substituted for the word “Authority”;
  - (b) in section 64ZZF(7), the words “Monetary Authority” were substituted for the word “Authority”;
  - (c) in section 64ZZH(1)(a), (b) and (c), the words “Monetary Authority” were substituted for the word “Authority”;
  - (d) in section 64ZZH(1)(d), the words “the Monetary Authority, for considering whether to recommend to the Authority” were substituted for the words “the Authority, for considering whether”;
  - (e) in section 64ZZH(1), the words “one or more persons appointed under section 5A(3) of the Exchange Fund Ordinance (Cap. 66)” were substituted for the words “one or more of its employees”;
  - (f) in section 64ZZH(4), the words “Monetary Authority” were substituted for the word “Authority”;

- (g) in section 64ZZO(1)(a) and (b), the words “Monetary Authority” were substituted for the word “Authority”;
- (h) in section 64ZZP(7), the words “Monetary Authority” were substituted for the word “Authority”;
- (i) in section 119(2)(a), the words “Monetary Authority” were substituted for the word “Authority”; and
- (j) section 119(5) were omitted and the following substituted—
  - “(5) The Monetary Authority may impose any conditions that it considers appropriate on a consent given by it for the purposes of subsection (2)(a).”.

**4H. Authority to furnish information**

When required by the Financial Secretary, the Authority must furnish to the Financial Secretary—

- (a) the information that the Financial Secretary specifies on the principles, practices and policies the Authority is pursuing or adopting, or proposes to pursue or adopt, in performing any of its functions; and
- (b) the reasons for pursuing or adopting, or proposing to pursue or adopt, those principles, practices and policies.”.

**14. Section 5 repealed (register of insurers)**

Section 5—

**Repeal the section.**



**15. Part IA, Division 2 added**

Part IA, after Division 1—

**Add****“Division 2—Accounting and Financial Arrangements****5A. Interpretation of Part IA, Division 2**

In this Division—

*auditor* (核數師) means an auditor appointed under section 5E;*financial year* (財政年度) means the financial year of the Authority specified in section 5B.**5B. Corporate plan and annual estimates**

- (1) The financial year of the Authority begins on 1 April in each year.
- (2) However, the first financial year of the Authority is to—
  - (a) begin on the commencement date of section 15 of the Amendment Ordinance; and
  - (b) end on the following 31 March.
- (3) The Authority must, no later than 31 December in each financial year, submit to the Financial Secretary for approval a corporate plan for the next financial year.
- (4) A corporate plan for a financial year must specify—
  - (a) the objectives of the Authority’s activities for that year;
  - (b) the nature and scope of the activities to be undertaken in order to achieve those objectives; and

- (c) the estimates of the Authority’s income and expenditure for that year.

- (5) The Financial Secretary must lay a copy of the estimates specified in the corporate plan as approved under subsection (3) on the table of the Legislative Council.

**5C. Appropriation**

For each financial year, the Government must pay to the Authority out of the general revenue the monies appropriated by the Legislative Council for that purpose.

**5D. Accounts and annual report**

- (1) The Authority must keep proper accounts and records of its transactions.
- (2) The Authority must, as soon as practicable after the end of each financial year, prepare financial statements—
  - (a) that give a true and fair view of—
    - (i) the state of affairs of the Authority as at the end of that year; and
    - (ii) the results of the operations and cash flows of the Authority in that year; and
  - (b) that are signed by the chairperson, and the chief executive officer, of the Authority.
- (3) The Authority must, as soon as practicable after the end of each financial year—
  - (a) prepare a report about its activities during that year; and
  - (b) send a copy of the report to the Financial Secretary.
- (4) The Financial Secretary must lay a copy of the report on the table of the Legislative Council.

**5E. Auditors**

- (1) The Authority must, with the approval of the Financial Secretary, appoint one or more auditors.
- (2) An auditor—
  - (a) has a right of access at all reasonable times to the books, accounts, vouchers, records and documents kept by the Authority; and
  - (b) is entitled to require from the officers of the Authority the information and explanations that the auditor considers necessary for the discharge of the auditor's duties.
- (3) The Director of Audit or another public officer authorized by the Director for the purpose may, at any reasonable time—
  - (a) examine any books, accounts, vouchers, records or documents kept by the Authority; and
  - (b) if the Director or the public officer considers it appropriate, make a copy of the whole of, or any entry in, those books, accounts, vouchers, records or documents.

**5F. Financial statements to be audited**

- (1) The Authority must, as soon as practicable after the end of each financial year, provide an auditor for audit with the financial statements prepared for the year under section 5D.
- (2) The auditor must—
  - (a) prepare a report on those financial statements; and
  - (b) send the report to the Authority.

- (3) The report must include a statement as to whether, in the opinion of the auditor, the financial statements give a true and fair view of—
  - (a) the state of affairs of the Authority as at the end of the financial year; and
  - (b) the results of the operations and cash flows of the Authority in that year.
- (4) The Authority must, as soon as practicable after receiving the report, provide the Financial Secretary with a copy of the report and of the related financial statements.
- (5) The Financial Secretary must lay a copy of the report and of the related financial statements on the table of the Legislative Council.

**5G. Tax exemption**

The Authority is exempt from taxation under the Inland Revenue Ordinance (Cap. 112).".

**16. Section 5H added**

Part II, before section 6—

**Add**

**"5H. Register of authorized insurers**

- (1) The Authority must keep a register of authorized insurers, in a form it thinks fit, containing—
  - (a) the name, place of incorporation and year of first authorization (whether under this Ordinance or an Ordinance repealed or amended by this Ordinance) of every authorized insurer;

- (b) for each authorized insurer, the class or classes of insurance business authorized to be carried on by that insurer and the conditions imposed under section 8(1)(a) which restrict class or classes of insurance business authorized to be carried on by that insurer;
  - (c) if an authorized insurer ceases to effect contracts of insurance of any description, or a requirement is imposed under section 27 for the cessation of effecting contracts of insurance of a description by that insurer, a note to that effect;
  - (d) if a requirement is imposed on an authorized insurer under section 30, or a Manager, provisional liquidator, liquidator or receiver is appointed, a note to that effect;
  - (e) if an authorized insurer ceases because of a direction under section 40 to be authorized to carry on insurance business which is part of a class of insurance business, a note to that effect; and
  - (f) if the authorization of an authorized insurer is suspended under section 41P(2)(b), a note to that effect.
- (2) A person may, at all reasonable times—
- (a) if the register is kept in a documentary form—inspect the register free of charge; or
  - (b) if the register is kept otherwise than in a documentary form—inspect a reproduction in a legible form of any information recorded in the register free of charge.
- (3) A person may, at all reasonable times and on payment of a prescribed fee, obtain—

- (a) a copy of an entry in, or extract of, the register; or
  - (b) a copy of the entry or extract, certified by an authorized officer of the Authority as a true copy of the entry or extract.
- (4) In any legal proceedings—
- (a) a document purporting to be a copy of an entry in, or extract of, the register, and purporting to be certified by an authorized officer of the Authority as a true copy of the entry or extract, is admissible in evidence on its production without further proof; and
  - (b) unless there is evidence to the contrary, on being admitted in evidence under paragraph (a), the document—
    - (i) is presumed to be certified by an authorized officer of the Authority;
    - (ii) is presumed to be a true copy of the entry or extract; and
    - (iii) is proof of its contents.
- (5) The Authority must, as far as practicable, make the register available to any person for inspection free of charge on the Internet.”.

**17. Section 7 amended (application for authorization to carry on insurance business)**

Section 7(2), English text—

**Repeal**

“the Second Schedule”

**Substitute**

“Schedule 2”.

**18. Section 8 amended (authorization)**

- (1) Section 8(3)(a)(ii)(B)—

**Repeal**

“regulations made under section 59(1)(aa)”

**Substitute**

“rules made under section 127(1)(b)”.

- (2) Section 8(3)(a)(iii)(A)(II), English text—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

- (3) Section 8(3)(a)(iii)(B)—

**Repeal**

“regulations made under section 59(1)(aa)”

**Substitute**

“rules made under section 127(1)(b)”.

- (4) Section 8(4)(b)—

**Repeal**

“regulations made under section 59(1)(a)”

**Substitute**

“rules made under section 127(1)(a)”.

- (5) Section 8(4)(b)—

**Repeal**

“such regulations”

**Substitute**

“such rules”.

- (6) Section 8(4)(c)—

**Repeal**

“such regulations”

**Substitute**

“such rules”.

**19. Section 10 amended (meaning of *relevant amount* (有關數額) in section 8(3))**

- (1) Section 10(2), English text—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

- (2) Section 10(3)(b), English text—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

- (3) Section 10(4)(e), English text—

**Repeal**

“the Third Schedule”

**Substitute**

“Schedule 3”.

- (4) Section 10(5)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

**20. Section 11 amended (appeal against refusal of authorization under section 8(2))**

(1) Section 11, heading—

**Repeal**

**“Appeal against”**

**Substitute**

**“Notification of”.**

(2) Section 11(2)—

**Repeal**

everything after “in question”

**Substitute a full stop.**

(3) Section 11—

**Repeal subsection (4).**

**21. Section 12 amended (conditions imposed under section 8 may be revoked)**

(1) Section 12, heading—

**Repeal**

**“Conditions imposed under section 8 may be revoked”**

**Substitute**

**“Conditions for authorization under section 8”.**

(2) Section 12(1)—

**Repeal**

everything after “section 8(1)(a).”

**Substitute**

“the Authority may, by serving a notice in writing on the authorized insurer concerned, amend or revoke a condition or impose a new condition that is reasonable in the circumstances.”.

(3) Section 12—

**Repeal subsection (3)**

**Substitute**

“(3) If a condition referred to in subsection (1) is amended or revoked or a new condition is imposed, the Authority may direct that the register kept under section 5H be amended accordingly.”.

**22. Section 13 amended (fee payable upon authorization and annually thereafter)**

Section 13(2)—

**Repeal**

“deemed by virtue of section 61(1)”

**Substitute**

“deemed under section 61(1) of the pre-amended Ordinance having continuing effect by the operation of section 2(7) of Schedule 11”.

**23. Section 13A substituted**

Section 13A—

**Repeal the section**

**Substitute**

**“13A. Approval of certain controllers of authorized insurers**

- (1) An authorized insurer must not appoint an individual as a controller of the insurer unless the Authority has approved the appointment under subsection (2).
- (2) The Authority may approve the appointment of the individual as a controller of the insurer—
  - (a) on an application made by the authorized insurer in the manner specified by the Authority; and
  - (b) on payment of a prescribed fee.
- (3) An authorized insurer which applies under subsection (2) must provide the Authority with—
  - (a) the information specified in Schedule 4;
  - (b) a statement signed by the individual proposed to be appointed as a controller of the insurer that the application is made with the individual's knowledge and consent; and
  - (c) any other information that the Authority requires to enable it to consider the application.
- (4) The Authority must not approve the appointment of an individual as a controller of the authorized insurer unless it is satisfied that the individual is a fit and proper person to be so appointed.
- (5) The Authority must give the authorized insurer and the individual a notice in writing of the result of the application made under subsection (2).
- (6) If the application is rejected, the notice must include a statement of the reasons for the rejection.
- (7) Subject to subsection (9), the Authority may, by serving a notice in writing on an authorized insurer and an individual, revoke the approval of the appointment of the

- individual as a controller of the insurer if it appears to the Authority that the individual is not, or is no longer, a fit and proper person to be so appointed.
- (8) The authorized insurer must, by the date specified in the notice under subsection (7), terminate the appointment of the individual as a controller of the insurer.
  - (9) Before serving the notice under subsection (7), the Authority must serve on the authorized insurer and the individual a preliminary written notice stating—
    - (a) that the Authority is considering to serve on the insurer a notice under that subsection because it appears to the Authority that the individual is not, or is no longer, a fit and proper person to be appointed as a controller of the insurer; and
    - (b) that the insurer or the individual may, within 1 month after the date of service of the preliminary notice—
      - (i) make written representations to the Authority; and
      - (ii) if the insurer or the individual so requests, make oral representations to a person appointed for the purpose by the Authority.
  - (10) If representations are made under subsection (9), the Authority must take them into consideration before serving a notice under subsection (7).
  - (11) An authorized insurer which contravenes subsection (1) or (8) commits an offence and is liable to a fine of \$200,000.
  - (12) In this section—  
*controller* (控權人)—

- (a) in relation to an authorized insurer which is incorporated in Hong Kong—means an individual who is a managing director or chief executive of the insurer under section 9; or
- (b) in relation to an authorized insurer which is incorporated outside Hong Kong—means an individual who is—
  - (i) a managing director of the insurer by virtue of section 9(3)(a); or
  - (ii) a chief executive of the insurer by virtue of section 9(3)(b).”.

**24. Section 13AB added**

After section 13A—

**Add****“13AB. Restrictions on acting as controllers of authorized insurers in contravention of section 13A**

- (1) An individual appointed as a controller of an authorized insurer in contravention of section 13A(1) must not act or continue to act as such a controller.
- (2) An individual appointed as a controller of an authorized insurer must not continue to act as such a controller after the date specified in the notice served on the individual under section 13A(7).
- (3) An individual who contravenes subsection (1) or (2) commits an offence and—
  - (a) is liable to a fine of \$200,000 and to imprisonment for 2 years; and

- (b) in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.”.

**25. Sections 13AC to 13AH added**

Before section 13B—

**Add****“13AC. Approval of directors of certain authorized insurers**

- (1) An authorized insurer which is incorporated in Hong Kong must not appoint a person as a director of the insurer unless the Authority has approved the appointment under subsection (2).
- (2) The Authority may approve the appointment of the person as a director of the insurer—
  - (a) on an application made by the authorized insurer in the manner specified by the Authority; and
  - (b) on payment of a prescribed fee.
- (3) An authorized insurer which applies under subsection (2) must provide the Authority with—
  - (a) the information specified in Schedule 4;
  - (b) a statement signed by the person proposed to be appointed as a director of the insurer that the application is made with the person’s knowledge and consent; and
  - (c) any other information that the Authority requires to enable it to consider the application.
- (4) The Authority must not approve the appointment of a person as a director of the authorized insurer unless it is satisfied that the person is a fit and proper person to be so appointed.

- (5) The Authority must give the authorized insurer and the person a notice in writing of the result of the application made under subsection (2).
- (6) If the application is rejected, the notice must include a statement of the reasons for the rejection.
- (7) Subject to subsection (9), the Authority may, by serving a notice in writing on an authorized insurer and a person, revoke the approval of the appointment of the person as a director of the insurer if it appears to the Authority that the person is not, or is no longer, a fit and proper person to be so appointed.
- (8) The authorized insurer must, by the date specified in the notice under subsection (7), terminate the appointment of the person as a director of the insurer.
- (9) Before serving the notice under subsection (7), the Authority must serve on the authorized insurer and the person a preliminary written notice stating—
  - (a) that the Authority is considering to serve on the insurer a notice under that subsection because it appears to the Authority that the person is not, or is no longer, a fit and proper person to be appointed as a director of the insurer; and
  - (b) that the insurer or the person may, within 1 month after the date of service of the preliminary notice—
    - (i) make written representations to the Authority; and
    - (ii) if the insurer or the person so requests, make oral representations to a person appointed for the purpose by the Authority.

- (10) If representations are made under subsection (9), the Authority must take them into consideration before serving a notice under subsection (7).
- (11) An authorized insurer which contravenes subsection (1) or (8) commits an offence and is liable to a fine of \$200,000.

**13AD. Restrictions on acting as directors of authorized insurers in contravention of section 13AC**

- (1) A person appointed as a director of an authorized insurer in contravention of section 13AC(1) must not act or continue to act as such a director.
- (2) A person appointed as a director of an authorized insurer must not continue to act as such a director after the date specified in the notice served on the person under section 13AC(7).
- (3) A person who contravenes subsection (1) or (2) commits an offence and—
  - (a) is liable to a fine of \$200,000 and, in the case of an individual, also to imprisonment for 2 years; and
  - (b) in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

**13AE. Approval of key persons in control functions of certain authorized insurers**

- (1) An authorized insurer which is not a captive insurer must not appoint an individual as a key person in control functions of the insurer unless the Authority has approved the appointment under subsection (2).



- (2) The Authority may approve the appointment of the individual as a key person in control functions of the insurer—
  - (a) on an application made by the authorized insurer in the manner specified by the Authority; and
  - (b) on payment of a prescribed fee.
- (3) An authorized insurer which applies under subsection (2) must provide the Authority with—
  - (a) the information specified in Schedule 4;
  - (b) a statement signed by the individual proposed to be appointed as a key person in control functions of the insurer that the application is made with the individual's knowledge and consent; and
  - (c) any other information that the Authority requires to enable it to consider the application.
- (4) The Authority must not approve the appointment of an individual as a key person in control functions of the authorized insurer unless it is satisfied that the individual is a fit and proper person to be so appointed.
- (5) The Authority must give the authorized insurer and the individual a notice in writing of the result of the application made under subsection (2).
- (6) If the application is rejected, the notice must include a statement of the reasons for the rejection.
- (7) Subject to subsection (9), the Authority may, by serving a notice in writing on an authorized insurer and an individual, revoke the approval of the appointment of the individual as a key person in control functions of the insurer if it appears to the Authority that the individual is not, or is no longer, a fit and proper person to be so appointed.

- (8) The authorized insurer must, by the date specified in the notice under subsection (7), terminate the appointment of the individual as a key person in control functions of the insurer.
- (9) Before serving the notice under subsection (7), the Authority must serve on the authorized insurer and the individual a preliminary written notice stating—
  - (a) that the Authority is considering to serve on the insurer a notice under that subsection because it appears to the Authority that the individual is not, or is no longer, a fit and proper person to be appointed as a key person in control functions of the insurer; and
  - (b) that the insurer or the individual may, within 1 month after the date of service of the preliminary notice—
    - (i) make written representations to the Authority; and
    - (ii) if the insurer or the individual so requests, make oral representations to a person appointed for the purpose by the Authority.
- (10) If representations are made under subsection (9), the Authority must take them into consideration before serving a notice under subsection (7).
- (11) An authorized insurer which contravenes subsection (1) or (8) commits an offence and is liable to a fine of \$200,000.
- (12) In this section—
 

**control function** (管控職能), in relation to an authorized insurer, means any of the following functions—

- (a) intermediary management function, which, in relation to an authorized insurer which carries on insurance business through licensed insurance intermediaries or accepts referral of insurance business from licensed insurance intermediaries, means a function—
  - (i) to establish and maintain internal control measures for—
    - (A) administering the licensed insurance agencies and licensed individual insurance agents appointed by the insurer;
    - (B) monitoring the compliance with this Ordinance by the licensed insurance agencies and licensed individual insurance agents appointed by the insurer; and
    - (C) ensuring the compliance by the licensed insurance intermediaries that refer insurance business to the insurer with the conduct requirements specified in Part XI and in any code of conduct or guideline published under sections 92 and 93; and
  - (ii) likely to enable the individual responsible for the performance of the function to exercise a significant influence on the business carried on by the insurer;
- (b) any other functions specified in a notice under subsection (14);

*key person in control functions* (管控要員)—

- (a) in relation to an authorized insurer which is incorporated in Hong Kong—means an individual who performs one or more of the control functions for the insurer; or
  - (b) in relation to an authorized insurer which is incorporated outside Hong Kong—means an individual who performs one or more of the control functions for the insurer in respect of so much of its insurance business as is carried on within Hong Kong.
- (13) For the purposes of the definition of *key person in control functions* in subsection (12), it does not matter whether the individual solely performs, or jointly performs with other key persons in control functions of the authorized insurer, the relevant functions.
  - (14) Subject to subsection (15), the Financial Secretary may, by notice published in the Gazette, specify a function to be a control function under subsection (12).
  - (15) The Financial Secretary must not specify a function to be a control function unless the Financial Secretary is satisfied that the function is likely to enable the individual responsible for the performance of the function to exercise a significant influence on the business carried on by an authorized insurer.

**13AF. Authority may impose conditions on granting approval under sections 13A, 13AC and 13AE**

- (1) This section applies if the Authority approves the appointment of—
  - (a) an individual as a controller of an authorized insurer under section 13A;

- (b) a person as a director of an authorized insurer under section 13AC; or
  - (c) an individual as a key person in control functions of an authorized insurer under section 13AE.
- (2) The Authority may impose any conditions that it considers appropriate on the approval when granting the approval.
  - (3) The Authority may also impose any conditions that it considers appropriate on the approval after the Authority has granted the approval.
  - (4) The Authority may amend or revoke any conditions imposed under subsection (2) or (3).
  - (5) The power under subsection (2), (3) or (4) is only exercisable by notice in writing served on the authorized insurer and the individual or person.
  - (6) A notice under subsection (5) must, in the case of any conditions being imposed or amended, include a statement of reasons for imposing or amending the conditions.
  - (7) An imposition, amendment or revocation of any conditions under subsection (2), (3) or (4) takes effect at the time the notice under subsection (5) is served on the authorized insurer and the individual or person or at the time specified in the notice, whichever is the later.

**13AG. Procedural requirements for rejecting application, or imposing or amending conditions**

- (1) The Authority must not—
  - (a) reject an application made under section 13A(2) for the approval of the appointment of an individual as a controller of an authorized insurer;

- (b) impose a condition under section 13AF(2) or (3) on such an approval; or
  - (c) amend such a condition under section 13AF(4), without giving the insurer and the individual an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.
- (2) The Authority must not—
    - (a) reject an application made under section 13AC(2) for the approval of the appointment of a person as a director of an authorized insurer;
    - (b) impose a condition under section 13AF(2) or (3) on such an approval; or
    - (c) amend such a condition under section 13AF(4), without giving the insurer and the person an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.
  - (3) The Authority must not—
    - (a) reject an application made under section 13AE(2) for the approval of the appointment of an individual as a key person in control functions of an authorized insurer;
    - (b) impose a condition under section 13AF(2) or (3) on such an approval; or
    - (c) amend such a condition under section 13AF(4), without giving the insurer and the individual an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.

- (4) In this section, a reference to an opportunity to make representations is a reference to an opportunity to make written representations or oral representations.

**13AH. Offence to provide false information in connection with application for approval**

- (1) A person commits an offence if the person, in connection with an application for the approval under section 13A, 13AC or 13AE—
- (a) makes a statement that is false or misleading in a material particular; and
  - (b) knows that, or is reckless as to whether, the statement is false or misleading in the material particular.
- (2) A person commits an offence if the person, in connection with an application for the approval under section 13A, 13AC or 13AE—
- (a) omits a material particular from a statement with the result that the statement is rendered false or misleading; and
  - (b) knows that, or is reckless as to whether, the material particular is omitted from the statement.
- (3) A person who commits an offence under subsection (1) or (2) is liable to a fine at level 5 and to imprisonment for 6 months.”.

**26. Section 13B amended (approval of persons proposing to become certain controllers of authorized insurer)**

- (1) Section 13B(2)(a), English text—

**Repeal**

“the Fifth Schedule”

**Substitute**

“Schedule 5”.

- (2) Section 13B(2)(a)—

**Repeal**

“; and”

**Substitute a semicolon.**

- (3) After section 13B(2)(a)—

**Add**

“(ab) a prescribed fee has been paid; and”.

- (4) Section 13B(3)(a)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (5) Section 13B(3), English text—

**Repeal**

“the Sixth Schedule”

**Substitute**

“Schedule 6”.

- (6) Section 13B(4)—

**Repeal**

“insurer”

**Substitute**

“authorized insurer”.

- (7) Section 13B(4)(b)—

**Repeal**

“public officer”

**Substitute**

“person”.

- (8) Section 13B—

**Repeal subsections (5) and (7).**

- (9) Section 13B(8)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

**27. Section 13C amended (restrictions on and sale of shares where there has been a contravention of section 13B(2))**

- (1) Section 13C(1)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (2) Section 13C(1)(a), Chinese text, before “保險人”—

**Add**

“該”.

- (3) Section 13C(1)(c)—

**Repeal**

everything after “, and”

**Substitute**

“the Authority’s objection under section 13B(4) has taken effect under section 114; or”.

- (4) Section 13C(6)(b)(iv)—

**Repeal**

everything after “subparagraph (iii)(A)”

**Substitute**

“but on an application made by that person for a review of the decision of the Authority to so serve the notice of objection, the Tribunal has set aside the decision under section 99,”.

- (5) Section 13C(10)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (6) Section 13C(10), Chinese text, after “, 在”—

**Add**

“該”.

**28. Section 13D amended (punishment for attempted evasion of restrictions)**

Section 13D(2)—

**Repeal**

“57”

**Substitute**

“122”.

**29. Section 14 amended (notification of change in particulars, and objection to appointment of new director or controller)**

- (1) Section 14, heading—

**Repeal**

“of new director or controller”.

- (2) Section 14(2)—

**Repeal**

“directors or controllers”

**Substitute**

“directors, controllers or key persons in control functions”.

- (3) Section 14(2)—

**Repeal**

“shall forthwith”

**Substitute**

“must, within 1 month after the date on which the change takes place,”.

- (4) Section 14(2), English text—

**Repeal**

“the Second Schedule”

**Substitute**

“Schedule 2”.

- (5) Section 14(2A), English text—

**Repeal**

“the Second Schedule”

**Substitute**

“Schedule 2”.

- (6) Section 14(2A), after “controllers”—

**Add**

“or directors”.

- (7) Section 14(2A)—

**Repeal**

“a controller” (wherever appearing)

**Substitute**

“a controller or director”.

- (8) Section 14(2A)—

**Repeal**

“13A or 13B” (wherever appearing)

**Substitute**

“13A, 13AC or 13B”.

- (9) Section 14(3)—

**Repeal**

“director or controller”

**Substitute**

“director, controller or key person in control functions”.

- (10) Section 14(3)—

**Repeal**

“he shall forthwith”

**Substitute**

“the person must, within 1 month after the date on which the person becomes, or ceases to be, a director, controller or key person in control functions of the insurer,”.

- (11) Section 14(4)—

**Repeal**

“director or controller (other than a controller to whom section 13A or 13B applies)”

**Substitute**

“controller or director (other than a controller or director to whom section 13A, 13AC or 13B applies)”.

(12) Section 14(5)(a)(ii)—

**Repeal**

“public officer”

**Substitute**

“person”.

(13) Section 14(5)—

**Repeal paragraph (b).**

(14) Section 14—

**Repeal subsection (6).**

(15) After section 14(8)—

**Add**

“(9) In this section—

*key person in control functions* (管控要員) has the meaning given by section 13AE(12).”.

**30. Section 14A added**

Part II, after section 14—

**Add**

**“14A. Determination of fit and proper**

(1) In determining whether a person is a fit and proper person for the purposes of sections 8, 13A, 13AC, 13AE, 13B, 14 and 15, the Authority must have regard to the following matters—

- (a) the education or other qualifications or experience of the person;
- (b) the person’s ability to act competently, honestly and fairly;
- (c) the reputation, character, reliability and integrity of the person;
- (d) the person’s financial status or solvency;
- (e) whether any disciplinary action has been taken against the person by—
  - (i) the Monetary Authority;
  - (ii) the Securities and Futures Commission;
  - (iii) the Mandatory Provident Fund Schemes Authority; or
  - (iv) any other authority or regulatory organization, whether in Hong Kong or elsewhere, which, in the Authority’s opinion, performs a function similar to those of the Authority;
- (f) if the person is a company in a group of companies, any information in the possession of the Authority, whether provided by the person or not, relating to—
  - (i) any other company in the group of companies; or
  - (ii) any substantial shareholder or officer of the person or of any company referred to in subparagraph (i);
- (g) the state of affairs of any other business which the person carries on or proposes to carry on.

- (2) The obligations imposed on the Authority under subsection (1) are in addition to those of the Authority to have regard to any other matter that the Authority considers relevant in making the determination.”.

**31. Section 15 amended (appointment of auditor and actuary)**

- (1) Section 15(1)—

**Repeal**

“Every insurer”

**Substitute**

“Every authorized insurer”.

- (2) Section 15(1)(a)(ii)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (3) Section 15(1)(b)—

**Repeal**

everything after “if”

**Substitute**

“the insurer carries on long term business, subject to subsection (3A), an actuary possessing the prescribed qualifications or who is acceptable to the Authority, as actuary to the insurer,”.

- (4) Section 15(3)—

**Repeal**

“An insurer”

**Substitute**

“An authorized insurer”.

- (5) After section 15(3)—

**Add**

- “(3A) If an authorized insurer which carries on long term business is incorporated in Hong Kong, the appointment of an actuary to the insurer is subject to the prior approval of the Authority.
- (3B) On an application made in the manner specified by the Authority and on payment of a prescribed fee, the Authority may approve the appointment of a person as an actuary of an authorized insurer under subsection (1)(b) if it appears to the Authority that the person is a fit and proper person to be so appointed.
- (3C) The Authority must give the authorized insurer and the person a notice in writing of the result of the application made under subsection (3B).
- (3D) If the application is rejected, the notice must include a statement of the reasons for the rejection.
- (3E) Subject to subsection (3F), the Authority may, by serving a notice in writing on an authorized insurer and a person, revoke the approval of the appointment of the person as an actuary of the insurer if it appears to the Authority that the person is not, or is no longer, a fit and proper person to be so appointed.
- (3F) Before serving the notice under subsection (3E), the Authority must serve on the authorized insurer and the person a preliminary written notice stating—
- (a) that the Authority is considering to serve on the insurer a notice under that subsection because it appears to the Authority that the person is not, or is



no longer, a fit and proper person to be appointed as an actuary of the insurer; and

- (b) that the insurer or the person may, within 1 month after the date of service of the preliminary notice, make written representations to the Authority and, if the insurer or the person so requests, oral representations to a person appointed for the purpose by the Authority.

(3G) If representations are made under subsection (3F), the Authority must take them into consideration before serving a notice under subsection (3E)."

(6) Section 15(5)—

**Repeal**

"Any insurer"

**Substitute**

"An authorized insurer".

### 32. Section 15AA added

After section 15—

**Add**

#### "15AA. Authority may impose conditions on granting approval under section 15

- (1) This section applies if the Authority approves the appointment of a person as an actuary of an authorized insurer under section 15.
- (2) The Authority may impose any conditions that it considers appropriate on the approval when granting the approval.

- (3) The Authority may also impose any conditions that it considers appropriate on the approval after the Authority has granted the approval.
- (4) The Authority may amend or revoke any conditions imposed under subsection (2) or (3).
- (5) The power under subsection (2), (3) or (4) is only exercisable by notice in writing served on the authorized insurer and the person.
- (6) A notice under subsection (5) must, in the case of any conditions being imposed or amended, include a statement of reasons for imposing or amending the conditions.
- (7) An imposition, amendment or revocation of any conditions under subsection (2), (3) or (4) takes effect at the time the notice under subsection (5) is served on the authorized insurer and the person or at the time specified in the notice, whichever is the later."

### 33. Section 15A amended (notification in respect of auditors appointed under section 15)

(1) Section 15A(1)—

**Repeal**

"An insurer"

**Substitute**

"An authorized insurer".

(2) Section 15A(1)(a), (b) and (c)(i) and (ii), Chinese text, before "保險人"—

**Add**

"該".

(3) Section 15A(1)(c)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (4) Section 15A(2), English text—

**Repeal**

“the Third Schedule” (wherever appearing)

**Substitute**

“Schedule 3”.

- (5) Section 15A(2)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (6) Section 15A(2)(c), Chinese text—

**Repeal**

“保險人”

**Substitute**

“該保險人的”.

- (7) Section 15A(3)—

**Repeal**

“Any insurer”

**Substitute**

“An authorized insurer”.

**34. Section 15B amended (notification in respect of actuaries appointed under section 15)**

- (1) Section 15B(1)—

**Repeal**

“An insurer”

**Substitute**

“An authorized insurer”.

- (2) Section 15B(1)(a) and (b), Chinese text, before “保險人”—

**Add**

“該”.

- (3) Section 15B(2)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (4) Section 15B(2)(c), Chinese text, before “保險人” (wherever appearing)—

**Add**

“該”.

- (5) Section 15B(2)(c)(i), English text—

**Repeal**

“the Third Schedule”

**Substitute**

“Schedule 3”.

- (6) Section 15B(3)—

**Repeal**

“Any insurer”

**Substitute**

“An authorized insurer”.

**35. Section 16 amended (keeping and preserving of proper books of account)**

- (1) Section 16(1)—

**Repeal**

“every insurer”

**Substitute**

“every authorized insurer”.

- (2) Section 16(2), Chinese text, before “保險人”—

**Add**

“有關獲授權”.

- (3) Section 16(3)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (4) After section 16(4)—

**Add**

“(5) The Authority may, by serving a notice in writing on an authorized insurer, require the insurer to provide to the Authority, within the period specified in the notice, any books of account that—

- (a) are required to be kept by this section; and
- (b) are required by the Authority for performing its functions.

- (6) An authorized insurer served with the notice which, without reasonable excuse, fails to comply with it commits an offence and is liable to a fine at level 5.”.

**36. Section 17 amended (submission of financial information)**

- (1) Section 17(1)—

**Repeal**

“Every insurer”

**Substitute**

“Every authorized insurer”.

- (2) Section 17(2)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (3) Section 17(2), Chinese text, after “監督及”—

**Add**

“該”.

- (4) Section 17(3)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (5) Section 17(3), Chinese text, after “說明”—

**Add**

“該”.

- (6) Section 17(1), (2) and (3), English text—

**Repeal**

“the Third Schedule” (wherever appearing)

**Substitute**

“Schedule 3”.

**37. Section 18 amended (periodic actuarial investigation of insurer with long term business)**

- (1) Section 18, heading, before “insurer”—

**Add**

“authorized”.

- (2) Section 18(1)—

**Repeal**

“Any insurer”

**Substitute**

“An authorized insurer”.

- (3) Section 18(1)(b), Chinese text, after “而就”—

**Add**

“該”.

- (4) Section 18(2)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (5) Section 18(2), Chinese text—

**Repeal**

“結算保險人”

**Substitute**

“結算其”.

- (6) Section 18(2), Chinese text, after “資料，” —

**Add**

“該”.

- (7) Section 18(1) and (2), English text—

**Repeal**

“the Third Schedule”

**Substitute**

“Schedule 3”.

**38. Section 20 amended (deposit of accounts etc. with Insurance Authority)**

- (1) Section 20(1)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (2) Section 20(1)—

**Repeal**

“6 months” (wherever appearing)

**Substitute**

“4 months”.

- (3) Section 20(1A), English text—

**Repeal**

“the Third Schedule”

**Substitute**

“Schedule 3”.

- (4) Section 20(1A)—

**Repeal**

“, except that the references in that subsection to 6 months shall be read as 4 months”.

- (5) Section 20(2)(a)(i) and (ii) and (4), Chinese text, before “保險人”—

**Add**

“有關”.

- (6) Section 20(5)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (7) Section 20(7)—

**Repeal**

“Any insurer”

**Substitute**

“An authorized insurer”.

**39. Section 21 amended (documents to be deposited with Registrar of Companies)**

- (1) Section 21(1)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (2) Section 21(1), English text—

**Repeal**

“the Third Schedule”

**Substitute**

“Schedule 3”.

- (3) Section 21(2)—

**Repeal**

“Any insurer”

**Substitute**

“An authorized insurer”.

**40. Section 22 amended (separation of assets and liabilities attributable to long term business)**

- (1) Section 22(1)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (2) Section 22(1)—

**Repeal paragraph (a)****Substitute**

“(a) for that part of that business which is of the nature specified in Part 2 of Schedule 1—

- (i) maintain an account for each class of insurance business specified in that Part; and
- (ii) maintain a separate fund for each class of insurance business specified in that Part; and”.

- (3) Section 22(1A)—

**Repeal**

- “an insurer”  
**Substitute**  
 “an authorized insurer”.
- (4) Section 22(1A)—  
**Repeal**  
 “pursuant to subsection (1)(a)(i)”  
**Substitute**  
 “under subsection (1)(a)”.
- (5) Section 22(2)—  
**Repeal**  
 “An insurer”  
**Substitute**  
 “An authorized insurer”.
- (6) Section 22(2)(a), Chinese text, before “保險人”—  
**Add**  
 “該”.
- (7) Section 22(3)—  
**Repeal**  
 “an insurer”  
**Substitute**  
 “an authorized insurer”.
- (8) Section 22(3)—  
**Repeal paragraphs (a) and (b)**  
**Substitute**  
 “(a) the aggregate value of the assets representing each separate fund (as determined in accordance with section 8(4)) is not less than the aggregate of—

- (i) the amount of the liabilities attributable to that part of that business to which the fund relates (as so determined); and
- (ii) the amount that is required to be held in that fund in accordance with the rules made under section 127(1)(c); and
- (b) the aggregate value of the assets representing all the funds (as determined in accordance with section 8(4)) is not less than the greater of the following—
- (i) the aggregate of—
- (A) the amount of the liabilities attributable to those parts of that business to which the funds relate (as so determined); and
- (B) \$2,000,000 or its equivalent;
- (ii) the aggregate of—
- (A) the amount of the liabilities attributable to those parts of that business to which the funds relate (as so determined); and
- (B) the amount that is required to be held in those funds in accordance with the rules made under section 127(1)(c).”.
- (9) Section 22(5)—  
**Repeal**  
 “Any insurer”  
**Substitute**  
 “An authorized insurer”.
- (10) Section 22(5)—  
**Repeal**  
 everything after “to a fine of”

**Substitute**

“\$1,000,000 and, in the case of a continuing offence, to a further fine of \$20,000 for each day during which the offence continues.”.

**41. Section 22A amended (foreign insurers may be authorized to maintain accounts in relation to their Hong Kong business)**

(1) Section 22A(1)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

(2) Section 22A(2), English text—

**Repeal**

“the Third Schedule” (wherever appearing)

**Substitute**

“Schedule 3”.

(3) Section 22A(3)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

(4) Section 22A(4)—

**Repeal**

“any insurer”

**Substitute**

“an authorized insurer”.

(5) Section 22A(5), Chinese text, before “保險人”—

**Add**

“有關”.

**42. Section 23 amended (application of assets of insurer with long term business)**

(1) Section 23, heading, before “insurer”—

**Add**

“authorized”.

(2) Section 23(1)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

(3) Section 23(2)—

**Repeal**

“an insurer’s”

**Substitute**

“an authorized insurer’s”.

(4) Section 23(2)—

**Repeal paragraphs (a) and (b)****Substitute**

“(a) for a fund maintained for that part of that business which is of the nature specified in Part 2 of Schedule 1, that the value of the assets representing the fund exceeds the aggregate of—

- (i) the amount of the liabilities attributable to that part of that business to which the fund relates; and

- (ii) the amount that is required to be held in that fund in accordance with the rules made under section 127(1)(c); and
- (b) for all funds, that the value of the assets representing the funds exceeds the greater of the following—
  - (i) the aggregate of—
    - (A) the amount of the liabilities attributable to those parts of that business to which the funds relate; and
    - (B) \$2,000,000 or its equivalent;
  - (ii) the aggregate of—
    - (A) the amount of the liabilities attributable to those parts of that business to which the funds relate; and
    - (B) the amount that is required to be held in those funds in accordance with the rules made under section 127(1)(c)."
- (5) Section 23(3)—
  - Repeal**
  - "an insurer"
  - Substitute**
  - "an authorized insurer".
- (6) Section 23(5)—
  - Repeal**
  - "an insurer"
  - Substitute**
  - "an authorized insurer".
- (7) Section 23(6)—

- Repeal**
- "No insurer"
- Substitute**
- "No authorized insurer".
- (8) Section 23(6)—
  - Repeal**
  - "an insurer"
  - Substitute**
  - "an authorized insurer".
- (9) Section 23(7)—
  - Repeal**
  - "Any insurer"
  - Substitute**
  - "An authorized insurer".
- (10) Section 23(7)—
  - Repeal**
  - everything after "to a fine of"
  - Substitute**
  - "\$1,000,000 and, in the case of a continuing offence, to a further fine of \$20,000 for each day during which the offence continues.".
- 43. **Section 25A amended (maintenance of assets in Hong Kong—general business)**
  - (1) Section 25A(1), English text, definition of *additional amount for unexpired risks*—
    - Repeal**
    - "the Third Schedule"



**Substitute**

“Schedule 3”.

- (2) Section 25A(1), English text, definition of *assets in Hong Kong*, paragraph (a)—

**Repeal**

“the Eighth Schedule”

**Substitute**

“Schedule 8”.

- (3) Section 25A(1), English text, definition of *claims outstanding*—

**Repeal**

“the Third Schedule”

**Substitute**

“Schedule 3”.

- (4) Section 25A(1), English text, definition of *fund*—

**Repeal**

“the Third Schedule”

**Substitute**

“Schedule 3”.

- (5) Section 25A(1), English text, definition of *Hong Kong insurance business*—

**Repeal**

“the Third Schedule”

**Substitute**

“Schedule 3”.

- (6) Section 25A(1), definition of *relevant amount*, paragraph (a)—

**Repeal**

“the insurer’s”

**Substitute**

“the authorized insurer’s”.

- (7) Section 25A(1), Chinese text, definition of *有關數額*, paragraph (b), before “保險人”—

**Add**

“該”.

- (8) Section 25A(1), English text, definition of *unearned premiums*—

**Repeal**

“the Third Schedule”

**Substitute**

“Schedule 3”.

- (9) Section 25A(3)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (10) Section 25A(3)(b), Chinese text, before “保險人”—

**Add**

“該”.

- (11) Section 25A(4)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (12) Section 25A(6)—  
**Repeal**  
 “an insurer”  
**Substitute**  
 “an authorized insurer”.
- (13) Section 25A(7)(b)—  
**Repeal**  
 “an insurer’s”  
**Substitute**  
 “an authorized insurer’s”.
- (14) Section 25A(8)—  
**Repeal**  
 “an insurer”  
**Substitute**  
 “an authorized insurer”.
- (15) Section 25A(8), Chinese text—  
**Repeal**  
 “保險人清盤時”  
**Substitute**  
 “該保險人清盤時，”.
- (16) Section 25A(9)—  
**Repeal**  
 “An insurer”  
**Substitute**  
 “An authorized insurer”.
- (17) Section 25A(9), English text—

- Repeal**  
 “the Third Schedule”  
**Substitute**  
 “Schedule 3”.
- (18) Section 25A(10)—  
**Repeal**  
 “An insurer”  
**Substitute**  
 “An authorized insurer”.
- (19) Section 25A(10)(ii), Chinese text, before “保險人”—  
**Add**  
 “該”.
- (20) Section 25A(11)—  
**Repeal**  
 “An insurer”  
**Substitute**  
 “An authorized insurer”.
- (21) Section 25A(11), Chinese text—  
**Repeal**  
 “如保險人”  
**Substitute**  
 “如該保險人”.
- 44. Section 25B amended (direction by Insurance Authority to re-determine liabilities)**
- (1) Section 25B(1)—  
**Repeal**

“an insurer’s”

**Substitute**

“an authorized insurer’s”.

- (2) Section 25B(1)—

**Repeal**

“an insurer”

**Substitute**

“the insurer”.

- (3) Section 25B(2)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (4) Section 25B(3)—

**Repeal**

“An insurer”

**Substitute**

“An authorized insurer”.

- (5) Section 25B(3)(b), English text—

**Repeal**

“the Third Schedule”

**Substitute**

“Schedule 3”.

- (6) Section 25B(4)—

**Repeal**

“An insurer”

**Substitute**

“An authorized insurer”.

- (7) Section 25B(4)(ii), Chinese text, before “保險人”—

**Add**

“該”.

- (8) Section 25B(5)—

**Repeal**

“An insurer”

**Substitute**

“An authorized insurer”.

**45. Section 26 amended (grounds on which powers are exercisable)**

- (1) Section 26(1)—

**Repeal**

“any insurer”

**Substitute**

“an authorized insurer”.

- (2) Section 26(1)(a), (b)(i) and (ii), (c), (d) and (e), Chinese text, before “保險人” (wherever appearing)—

**Add**

“該”.

- (3) Section 26(1A)—

**Repeal**

“any insurer”

**Substitute**

“an authorized insurer”.

- (4) Section 26(2)—

**Repeal**

“any insurer”

**Substitute**

“an authorized insurer”.

- (5) Section 26(3)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (6) Section 26(3A)—

**Repeal**

“any insurer”

**Substitute**

“an authorized insurer”.

- (7) Section 26(3A)—

**Repeal**

“an insurer”

**Substitute**

“the insurer”.

- (8) Section 26(4)(b)—

**Repeal**

“any insurer”

**Substitute**

“an authorized insurer”.

- (9) Section 26(5)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- 46.
- Section 34 amended (power to obtain information and require production of documents)**

Section 34—

**Repeal subsection (5).**

- 47.
- Section 35AA amended (maintenance of excess of assets over liabilities etc.)**

- (1) Section 35AA(1)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (2) Section 35AA(1)—

**Repeal**

“regulations made under section 59(1)(aa)”

**Substitute**

“rules made under section 127(1)(b)”.

- (3) Section 35AA(1)(a), (b) and (c), Chinese text, before “保險人” (wherever appearing)—

**Add**

“該”.

- (4) Section 35AA(2)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (5) Section 35AA(2)(a), (b) and (c), Chinese text, before “保險人” (wherever appearing)—

**Add**

“該”.

- (6) Section 35AA(2)—

**Repeal**

“regulations made under section 59(1)(aa)”

**Substitute**

“rules made under section 127(1)(b)”.

- (7) Section 35AA(3)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

**48. Section 35B amended (accounts)**

Section 35B—

**Repeal subsections (2) and (3).**

**49. Section 36 amended (notice of proposed exercise of power under section 27)**

Section 36(1)(b)—

**Repeal**

“public officer”

**Substitute**

“person”.

**50. Section 37 amended (notice of proposed exercise of powers on ground of unfitness)**

- (1) Section 37(1)(b)—

**Repeal**

“public officer”

**Substitute**

“person”.

- (2) Section 37(6)—

**Repeal**

“any insurer”

**Substitute**

“an authorized insurer”.

- (3) Section 37(6)—

**Repeal paragraphs (a), (b) and (c)**

**Substitute**

- “(a) after serving a notice under section 13A(5) on the insurer rejecting the application for the approval of the appointment of an individual as a controller of the insurer, and despite the notice, the individual is appointed as a controller of the insurer;
- (b) after serving a notice under section 13A(7) on the insurer revoking the approval of the appointment of an individual as a controller of the insurer, and despite the notice, the individual continues to act as a controller of the insurer;
- (c) after serving a notice under section 13AC(5) on the insurer rejecting the application for the approval of the appointment of a person as a director of the insurer, and

despite the notice, the person is appointed as a director of the insurer;

- (d) after serving a notice under section 13AC(7) on the insurer revoking the approval of the appointment of a person as a director of the insurer, and despite the notice, the person continues to act as a director of the insurer; or
- (e) after serving a notice under section 14(4) on the insurer, and despite the notice, the person continues to act as a controller or director.”.

(4) After section 37(6)—

**Add**

“(7) For the purposes of subsection (6), this section does not apply even if—

- (a) the insurer or the individual or person concerned has applied to the Tribunal under section 98 for a review of the decision of the Authority to serve the notice; and
- (b) the Tribunal has not determined the review of the decision.”.

**51. Section 38A amended (effect of direction given under section 35(2)(b))**

Section 38A(1)(b)—

**Repeal**

“13A(1)”

**Substitute**

“13A(12)”.

**52. Section 38B amended (powers of Manager)**

- (1) Section 38B(1)(b), English text—

**Repeal**

“the Seventh Schedule”

**Substitute**

“Schedule 7”.

- (2) Section 38B(2)(a)—

**Repeal**

“13A(1)”

**Substitute**

“13A(12)”.

- (3) Section 38B(3)(a)(ii)—

**Repeal**

“13A(1)”

**Substitute**

“13A(12)”.

- (4) Section 38B(4)—

**Repeal**

“13A(2)”

**Substitute**

“13A(1)”.

**53. Section 40 amended (withdrawal of authorization)**

- (1) Section 40(4)—

**Repeal**

“section 5”

**Substitute**

“section 5H”.

- (2) Section 40(5)—

**Repeal**

“section 5”

**Substitute**

“section 5H”.

**54. Section 41 amended (offences under Part V)**

- (1) Section 41(1)—

**Repeal paragraph (b).**

- (2) Section 41(1)(c) and (e)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (3) After section 41(1)—

**Add**

“(1A) A person who, in purported compliance with a requirement imposed under section 34, furnishes information which the person knows to be false in a material particular, or recklessly furnishes information which is false in a material particular, commits an offence and is liable—

- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.

**55. Part VA added**

After section 41—

**Add****“Part VA****Further Regulatory Powers on Insurers****Division 1—Preliminary****41A. Interpretation**

In this Part—

*business record* (業務紀錄), in relation to an insurer, means a record or document relating to—

- (a) the business conducted by the insurer; or
- (b) a transaction or activity that was undertaken in the course of, or may affect, the business conducted by the insurer;

*inspector* (查察員) means a person appointed as an inspector under section 41B(6);

*investigator* (調查員) means a person directed or appointed by the Authority under section 41D(1) to investigate any matter.

**Division 2—Inspection and Investigation without Warrant****41B. Power to conduct inspection**

- (1) An inspector may exercise the powers under subsections (2) and (3) for ascertaining whether an authorized insurer is complying with, has complied with—
  - (a) a provision of this Ordinance;
  - (b) a notice or requirement given or imposed under a provision of this Ordinance;

- (c) a term or condition of an authorization granted under section 8; or
  - (d) any other condition imposed under any provision of this Ordinance.
- (2) At any reasonable time, an inspector—
- (a) may enter any premises used by the authorized insurer in connection with its business;
  - (b) may inspect, and may make copies or otherwise record details of, a business record of the insurer; and
  - (c) may make inquiries of the insurer or a person specified in subsection (5)—
    - (i) concerning a business record of the insurer; or
    - (ii) concerning a transaction or activity that was undertaken in the course of, or may affect, the business conducted by the insurer.
- (3) In exercising a power under subsection (2)(b) or (c), the inspector may require the authorized insurer, or a person specified in subsection (5)—
- (a) to give the inspector access to a business record of the insurer;
  - (b) to produce to the inspector, within the time and at the place specified in the requirement, a business record of the insurer; and
  - (c) to answer a question concerning—
    - (i) a business record of the insurer; or
    - (ii) a transaction or activity that was undertaken in the course of, or may affect, the business conducted by the insurer.

- (4) The power under subsection (2)(c) or (3) is not exercisable in relation to a person specified in subsection (5) unless the inspector has reasonable cause to believe that the information or record being sought cannot be obtained by exercising the power in relation to the authorized insurer.
- (5) The person specified for subsections (2)(c) and (3) is a person whom the inspector has reasonable cause to believe has information relating to, or is in possession of, a business record of the authorized insurer.
- (6) The Authority may in writing appoint a person, or a person belonging to a class of persons, as an inspector for the purposes of this section.
- (7) The Authority must provide an inspector with a copy of its appointment.
- (8) When imposing a requirement on a person under subsection (3), an inspector is required to produce a copy of the appointment to that person for inspection as soon as practicable.

**41C. Inspector may require answer, etc. to be verified by statutory declaration**

- (1) If a person gives an answer in compliance with a requirement imposed under section 41B(2)(c) or (3), the inspector may, in writing, require the person to verify, within the time specified in the requirement, the answer by a statutory declaration.
- (2) If a person does not give an answer in compliance with a requirement imposed under section 41B(2)(c) or (3) for the reason that the information concerned was not within the person's knowledge or possession, the inspector may, in writing, require the person to verify, within the



time specified in the requirement, by a statutory declaration, that the person did not comply with the requirement for that reason.

- (3) A statutory declaration under subsection (1) or (2) may be made before the inspector and, for that purpose, the inspector is to have full power to administer the statutory declaration.

#### 41D. Power to conduct investigation

- (1) If—

- (a) the Authority has reasonable cause to believe that a provision of this Ordinance may have been contravened;
- (b) the Authority has reasonable cause to believe that a person may have been involved in defalcation, fraud, misfeasance or other misconduct in relation to the carrying on of insurance business;
- (c) the Authority has reasonable cause to believe that a person has carried on, or is carrying on, insurance business in a manner that is not in the interests of policy holders or potential policy holders or the public interest; or
- (d) the Authority, for considering whether to exercise any power under section 41P, has reason to enquire if—
  - (i) a person is, or was, guilty of misconduct as defined by section 41P; or
  - (ii) a person is, or was, not a fit and proper person as described in section 41P(1)(c),

the Authority may in writing direct one or more of its employees, or, with the consent of the Financial

Secretary, appoint one or more other persons, to investigate the matter.

- (2) The costs and expenses incurred by an investigator, other than an employee of the Authority, may be paid out of moneys provided by the Legislative Council.
- (3) The Authority must provide an investigator with a copy of its direction or appointment.
- (4) Before first imposing a requirement on a person under subsection (5), an investigator must produce a copy of the direction or appointment to that person for inspection.
- (5) An investigator may require a person specified in subsection (6)—
  - (a) to produce, within the time and at the place the investigator requires in writing, a record or document specified by the investigator that—
    - (i) is or may be relevant to the investigation; and
    - (ii) is in the person's possession;
  - (b) to give an explanation or further particulars in respect of a record or document produced;
  - (c) to attend before the investigator at the time and place the investigator requires in writing, and answer a question relating to any matter under investigation that may be raised by the investigator;
  - (d) to answer in writing, within the time the investigator requires in writing, a written question relating to any matter under investigation that may be raised by the investigator; and
  - (e) to give the investigator all other assistance in connection with the investigation that the person is able to give.

- (6) The person specified for subsection (5) is—
- (a) a person who is relevant to the matter that an investigator is directed or appointed to investigate; or
  - (b) a person whom an investigator has reasonable cause to believe—
    - (i) to be in possession of a record or document that contains, or is likely to contain, information relevant to the investigation; or
    - (ii) to be otherwise in possession of such information.

**41E. Investigator may require explanation, etc. to be verified by statutory declaration**

- (1) If a person gives any explanation, particulars or answer in compliance with a requirement imposed under section 41D(5), the investigator may, in writing, require the person to verify, within the time specified in the requirement, the explanation, particulars or answer by a statutory declaration.
- (2) If a person does not give any explanation, particulars or answer in compliance with a requirement imposed under section 41D(5) for the reason that the information concerned was not within the person's knowledge or possession, the investigator may, in writing, require the person to verify, within the time specified in the requirement, by a statutory declaration, that the person did not comply with the requirement for that reason.
- (3) A statutory declaration under subsection (1) or (2) may be made before the investigator and, for that purpose, the investigator is to have full power to administer the statutory declaration.

**41F. Application to Court of First Instance for inquiry into failure**

- (1) If a person fails to comply with a requirement imposed by an inspector under section 41B or 41C or an investigator under section 41D or 41E, the inspector or investigator 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).
- (4) Despite anything in this Ordinance, no proceedings may be instituted against a person for subsection (2)(b) in respect of a conduct if—
  - (a) criminal proceedings have previously been instituted against the person under section 41G(1), (2), (3), (4) or (5) in respect of the same conduct; and
  - (b) those proceedings remain pending, or because of the previous institution of those proceedings, no

criminal proceedings may again be lawfully instituted against that person under section 41G(1), (2), (3), (4) or (5) in respect of the same conduct.

#### **41G. Offences in relation to inspections and investigations**

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a specified requirement imposed on the person.
- (2) A person commits an offence if the person, with intent to defraud, fails to comply with a specified requirement imposed on the person.
- (3) A person commits an offence if—
  - (a) in purported compliance with a specified requirement imposed on the person, the person produces a record or document, gives an answer, or gives any explanation or particulars, that are false or misleading in a material particular; and
  - (b) the person knows that, or is reckless as to whether, the record or document, the answer, or the explanation or particulars, are false or misleading in the material particular.
- (4) A person commits an offence if, in purported compliance with a specified requirement imposed on the person, the person, with intent to defraud, produces a record or document, gives an answer, or gives any explanation or particulars, that are false or misleading in a material particular.
- (5) A person commits an offence if the person, with intent to defraud—
  - (a) causes or allows another person to fail to comply with a specified requirement imposed on that other person; or

- (b) causes or allows that other person, in purported compliance with a specified requirement imposed on that other person, to produce a record or document, to give an answer, or to give any explanation or particulars, that are false or misleading in a material particular.
- (6) A person is not excused from complying with a requirement imposed on the person under section 41D(5) or 41E(1) only on the ground that to do so might tend to incriminate the person.
- (7) Despite anything in this Ordinance, no criminal proceedings may be instituted against a person under subsection (1), (2), (3), (4) or (5) in respect of a conduct if—
  - (a) proceedings have previously been instituted against the person under section 41F(2)(b) in respect of the same conduct; and
  - (b) those proceedings remain pending, or because of the previous institution of those proceedings, no proceedings may again be lawfully instituted against that person under section 41F(2)(b) in respect of the same conduct.
- (8) A person who commits an offence under subsection (1) is liable—
  - (a) on conviction on indictment to a fine of \$200,000 and to imprisonment for 1 year; or
  - (b) on summary conviction to a fine at level 5 and to imprisonment for 6 months.
- (9) A person who commits an offence under subsection (3) is liable—

- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (10) A person who commits an offence under subsection (2), (4) or (5) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (11) In this section—
- specified requirement* (指明要求) means a requirement imposed under section 41B(3), 41C(1) or (2), 41D(5) or 41E(1) or (2).

**41H. Use of incriminating evidence in proceedings**

- (1) If an investigator requires a person to give an answer to a question or to give an explanation or further particulars under this Part, the investigator must ensure that the person has first been informed of the effect of subsection (2).
- (2) Despite anything in this Ordinance and subject to subsection (3)—
  - (a) if an investigator requires a person to give an answer to a question or to give an explanation or further particulars under this Part; and
  - (b) the answer, or the explanation or further particulars, might tend to incriminate the person and the person so claims before giving the answer or giving the explanation or further particulars,

- the requirement and the question and answer, or the explanation or further particulars, are not admissible in evidence against the person in criminal proceedings in a court of law.
- (3) Subsection (2) does not apply to criminal proceedings in which the person is, in relation to the answer, or the explanation or further particulars, charged with—
- (a) an offence under section 41G(1), (2), (3), (4) or (5), or under Part V of the Crimes Ordinance (Cap. 200); or
  - (b) perjury.

**41I. Offences in relation to destruction of records and documents**

- (1) A person commits an offence if—
  - (a) the person destroys, falsifies, conceals or otherwise disposes of, or causes or permits the destruction, falsification, concealment or disposal of, a record or document that the person is required by an inspector or investigator to produce under section 41B or 41D; and
  - (b) the person does so with intent to conceal, from the inspector or investigator, facts or matters capable of being disclosed by the record or document.
- (2) A person who commits an offence under subsection (1) is liable—
  - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

**41J. Order to pay costs of investigation**

- (1) If a person is convicted by a court on a prosecution instituted as a result of the findings of an investigation under section 41D—
  - (a) the court may order the person to pay to the Authority the whole or a part of the costs and expenses of the investigation; and
  - (b) the Authority may recover the whole or that part of the costs and expenses as a civil debt due to it.
- (2) Subsection (3) applies if—
  - (a) the Authority receives an amount under an order made under subsection (1) in respect of any of the costs and expenses of an investigation; and
  - (b) all or any of the costs and expenses have already been paid out of moneys provided by the Legislative Council.
- (3) The Authority must pay to the Financial Secretary the amount received under the order to the extent to which it has already been paid out of moneys provided by the Legislative Council.

**Division 3—Magistrate's Warrants****41K. Magistrate's warrants to enter premises, etc.**

- (1) This section applies if a magistrate is satisfied on information on oath laid by a person specified in subsection (3) that there are reasonable grounds to suspect that there is, or is likely to be, on premises specified in the information a record or document that may be required to be produced under section 41B or 41D.

- (2) If this section applies, the magistrate may issue a warrant authorizing a person mentioned in the warrant, and other persons who may be necessary to assist in the execution of the warrant—
  - (a) to enter the premises, if necessary by force, at any time within the period of 7 days beginning on the date of the warrant; and
  - (b) to search for, seize and remove a record or document that the person mentioned in the warrant has reasonable cause to believe may be required to be produced under section 41B or 41D.
- (3) The person specified for subsection (1) is—
  - (a) in relation to a record or document that may be required to be produced under section 41B—an inspector; or
  - (b) in relation to a record or document that may be required to be produced under section 41D—an investigator.
- (4) If an authorized person has reasonable cause to believe that a person found on the premises is employed, or engaged to provide a service, in connection with a business that is or has been conducted on the premises, the authorized person may require that person to produce for examination a record or document that—
  - (a) is in the possession of that person; and
  - (b) the authorized person has reasonable cause to believe may be required to be produced under section 41B or 41D.
- (5) An authorized person may, in relation to a record or document required to be produced under subsection (4)—

- (a) prohibit a person found on the premises from—
  - (i) removing the record or document from the premises;
  - (ii) erasing anything from, adding anything to, or otherwise altering anything in, the record or document; or
  - (iii) otherwise interfering in any way with, or causing or permitting any other person to interfere with, the record or document; or
- (b) take any other step that appears to the authorized person to be necessary for—
  - (i) preserving the record or document; or
  - (ii) preventing interference with the record or document.
- (6) An authorized person who enters any premises under this section must, if required, produce the warrant for inspection.
- (7) Section 102 of the Criminal Procedure Ordinance (Cap. 221) applies to any property that has, because of this section, come into the possession of the Authority, as it applies to property that has come into the possession of the police.
- (8) A person commits an offence if the person—
  - (a) without reasonable excuse, fails to comply with a requirement or prohibition imposed on the person under subsection (4) or (5); or
  - (b) obstructs an authorized person exercising a power conferred by subsection (4) or (5).
- (9) A person who commits an offence under subsection (8) is liable—

- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (10) In this section—
 

**authorized person** (獲授權人) means a person mentioned in, and authorized by, a warrant issued under subsection (2) to carry out the acts set out in paragraphs (a) and (b) of that subsection.

#### **41L. Removal of records and documents under section 41K**

- (1) A record or document removed under section 41K(2) may be retained—
  - (a) for a period not exceeding 6 months beginning on the day of its removal; or
  - (b) for a longer period that may be required because of any criminal proceedings, or any proceedings under this Ordinance.
- (2) If an authorized person removes a record or document under section 41K(2), the authorized person must, as soon as practicable after the removal, give a receipt for the record or document.

### **Division 4—Miscellaneous**

#### **41M. Lien claimed on records or documents**

If the person in possession of a record or document required to be produced under section 41B or 41D claims a lien on the record or document—

- (a) the requirement to produce the record or document is not affected by the lien;

- (b) no fee is payable for the production; and
- (c) the production is without prejudice to the lien.

**41N. Production of information in information systems, etc.**

If any information or matter contained in a record or document required to be produced under section 41B or 41D is recorded otherwise than in a legible form, a power to require the production of the record or document includes the power to require the production of a reproduction of the recording of the information or matter or of the relevant part of it—

- (a) if the recording enables the information or matter to be reproduced in a legible form—in a legible form; and
- (b) if the information or matter is recorded in an information system—in a form which enables the information or matter to be reproduced in a legible form.

**41O. Inspection of records or documents seized, etc.**

- (1) If a specified person has taken possession of a record or document under this Part, the specified person must permit a person who would be entitled to inspect the record or document had the specified person not taken possession of it, to inspect it and to make copies or otherwise record details of it at all reasonable times.
- (2) The permission is subject to any reasonable conditions the specified person imposes.
- (3) In this section—  
*specified person* (指明人士) means—

- (a) an authorized person within the meaning of section 41K; or
- (b) an investigator.

**Division 5—Disciplinary Actions****41P. Disciplinary actions in respect of authorized insurers**

- (1) The Authority may exercise any of the powers specified in subsection (2) in respect of an authorized insurer if—
  - (a) the insurer is guilty of misconduct;
  - (b) the insurer was guilty of misconduct; or
  - (c) the Authority is of the opinion that—
    - (i) a person who holds the position of a director or controller of the insurer is not a fit and proper person to hold that position; or
    - (ii) a person who held the position of a director or controller of the insurer was not a fit and proper person to hold that position.
- (2) The following powers are specified for subsection (1)—
  - (a) to revoke the authorization of the authorized insurer, whether in relation to all or any, or a part of all or any, of the class or classes of insurance business for which the insurer is authorized to carry on;
  - (b) to suspend the authorization of the authorized insurer, whether in relation to all or any, or a part of all or any, of the class or classes of insurance business for which the insurer is authorized to carry on, for a period or until the occurrence of an event, that the Authority specifies;

- (c) to prohibit the authorized insurer from applying to be authorized to carry on a class of insurance business, for a period or until the occurrence of an event, that the Authority specifies;
- (d) to reprimand the authorized insurer publicly or privately;
- (e) to order the authorized insurer to pay a pecuniary penalty not exceeding the amount which is the greater of—
  - (i) \$10,000,000; or
  - (ii) 3 times the amount of the profit gained or loss avoided by the insurer as a result of the misconduct, or of the conduct of the director or controller of the insurer which leads the Authority to form the opinion referred to in subsection (1)(c) in relation to that director or controller.
- (3) If the Authority has exercised its power under subsection (1), it may disclose to the public details of its decision, the reasons for which the decision was made, and any material facts relating to the case.
- (4) The Authority, in forming an opinion for subsection (1)(c), may, among other matters (including those specified in section 14A), take into account the present or past conduct of the person.
- (5) In this section—  
***misconduct*** (不當行為) means—
  - (a) a contravention of a provision of this Ordinance;
  - (b) a contravention of a term or condition of an authorization granted under section 8;

- (c) a contravention of any other condition imposed on an authorized insurer under a provision of this Ordinance; or
  - (d) an act or omission relating to the carrying on of a class of insurance business by an authorized insurer which, in the Authority's opinion, is or is likely to be prejudicial to the interests of policy holders or potential policy holders or the public interest,
- and ***guilty of misconduct*** (犯不當行為) is to be construed accordingly.

**41Q. Procedural requirements in respect of exercise of powers under section 41P**

- (1) The Authority must not exercise a power under section 41P without first giving the authorized insurer in respect of whom the power is to be exercised a reasonable opportunity of being heard.
- (2) If the Authority decides to exercise a power under section 41P in respect of an authorized insurer, the Authority must inform the insurer of its decision to do so by notice in writing.
- (3) The notice must include—
  - (a) a statement of the reasons for the decision;
  - (b) the time when the decision is to take effect;
  - (c) in so far as applicable, the duration and terms of the revocation, suspension or prohibition to be imposed under the decision;
  - (d) in so far as applicable, the terms in which the authorized insurer is to be reprimanded under the decision; and



- (e) in so far as applicable, the amount of the pecuniary penalty to be imposed under the decision and the period within which it is required to be paid.

**41R. Guidelines for exercise of power to impose pecuniary penalty under section 41P**

- (1) The Authority must not exercise a power under section 41P to impose a pecuniary penalty unless—
  - (a) it has published, in the Gazette and in any other manner it considers appropriate, guidelines to indicate the way in which it proposes to exercise that power; and
  - (b) in exercising that power, it has had regard to the guidelines so published.
- (2) The guidelines are not subsidiary legislation.

**41S. General provisions relating to exercise of disciplinary powers**

- (1) At any time when the Authority is contemplating exercising a power under section 41P, it may, if it considers it appropriate to do so in the interests of policy holders or potential policy holders or the public interest, by agreement with the authorized insurer concerned—
  - (a) exercise a power that the Authority may exercise in respect of the insurer under this Part; and
  - (b) take an additional action that the Authority considers appropriate in the circumstances of the case.
- (2) If the Authority exercises a power or takes an additional action under subsection (1), it must comply with section 41Q as if that section applied to the power or action, unless the insurer agrees otherwise.

- (3) In reaching a decision under this Division, the Authority may have regard to any information or material in its possession which is relevant to the decision, regardless of how the information or material has come into its possession.

**41T. Order for payment of pecuniary penalty**

- (1) An authorized insurer ordered to pay a pecuniary penalty under section 41P must pay the penalty to the Authority within 30 days, or a longer period that the Authority specifies by notice under section 41Q(3)(e), after the order has taken effect.
- (2) The Court of First Instance may, on an application of the Authority, register an order to pay a pecuniary penalty made under section 41P in the Court.
- (3) On registration, the order is to be regarded as an order of the Court of First Instance made within the civil jurisdiction of the Court for the payment of money.
- (4) For making an application under subsection (2), the Authority must produce to the Registrar of the High Court a notice in writing requesting that the order be registered, together with the original and a copy of the order.
- (5) A pecuniary penalty paid to or recovered by the Authority under an order made under section 41P must be paid by the Authority into the general revenue.

**41U. Effect of suspension under section 41P**

- (1) If the authorization of an authorized insurer is suspended under section 41P, the insurer must, during the suspension period—

- (a) continue to be regarded for the purposes of this Ordinance to be authorized, whether in relation to all or any, or a part of all or any, of the class or classes of insurance business for which the authorization of the insurer is suspended; and
  - (b) without limiting paragraph (a), continue to be required to comply with the provisions of this Ordinance relating to an authorized insurer as would apply to the insurer were the authorization not so suspended.
- (2) Without limiting the powers that can be exercised by the Authority under section 41P, the Authority may revoke the authorization even though the authorization is suspended under section 41P.

**41V. Revocation or suspension does not avoid or affect agreement, etc.**

A revocation or suspension of the authorization of a person under this Division does not—

- (a) avoid or affect an agreement, transaction or arrangement entered into by the person, regardless of whether the agreement, transaction or arrangement was entered into before or after the revocation or suspension; or
- (b) affect a right, obligation or liability arising under the agreement, transaction or arrangement.

**41W. Requirement to transfer records on revocation or suspension**

- (1) If the authorization of an authorized insurer is revoked or suspended under this Division, the Authority may, by notice in writing, require the insurer to transfer to a

policy holder of the insurer a copy of the records relating to the policy holder's assets or affairs, held at any time for the policy holder as specified in the notice.

- (2) A person who, without reasonable excuse, fails to comply with a requirement imposed on the person under subsection (1) commits an offence and is liable to a fine of \$200,000 and to imprisonment for 2 years."

**56. Section 49B amended (notice of commencement of liquidation, etc. and of appointment of liquidator, etc.)**

After section 49B(4)—

**Add**

"(5) In this section—

*working day* (工作日) means a day other than—

- (a) a public holiday;
- (b) a Saturday; or
- (c) a gale warning day or black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1)."

**57. Section 50A amended (requirement on solvency margin)**

- (1) Section 50A(1)(a)(ii), English text—

**Repeal**

"the First Schedule"

**Substitute**

"Schedule 1".

- (2) Section 50A(1)(b)—

**Repeal**

"regulations made under section 59(1)(aa)"

**Substitute**

“rules made under section 127(1)(b)”.

- (3) Section 50A(2)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (4) Section 50A(2)—

**Repeal**

“regulations made under section 59(1)(aa)”

**Substitute**

“rules made under section 127(1)(b)”.

**58. Section 50B amended (fit and proper management)**

Section 50B—

**Repeal subsections (3), (4), (5) and (6)****Substitute**

“(3) Sections 13A (except section 13A(12)) and 13AB apply to Lloyd’s.

(4) A reference in those sections to an authorized insurer is a reference to Lloyd’s.

(5) A reference in those sections to a controller is a reference to the authorized representative.”.

**59. Section 50C amended (reporting requirements)**

- (1) Section 50C(1), English text—

**Repeal**

“the Third Schedule” (wherever appearing)

**Substitute**

“Schedule 3”.

- (2) Section 50C(2)—

**Repeal**

“regulations made under section 59(1)(a)”

**Substitute**

“rules made under section 127(1)(a)”.

- (3) Section 50C(3)—

**Repeal**

“60”

**Substitute**

“128”.

- (4) Section 50C(3)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (5) Section 50C(4)(a)—

**Repeal**

“6 months”

**Substitute**

“4 months”.

**60. Section 50D amended (local assets)**

Section 50D—

**Repeal**

“section 59(1)(a)”

**Substitute**

“section 127(1)(a)”.

**61. Section 50E substituted**

Section 50E—

**Repeal the section****Substitute****“50E. Part X applies to Lloyd’s**

- (1) Part X applies to Lloyd’s.
- (2) A reference in Part X to an insurer or authorized insurer is a reference to a member of Lloyd’s.”.

**62. Section 50G added**

Part VII, after section 50F—

**Add****“50G. Further regulatory powers**

- (1) The provisions of Part VA, except sections 41P(2)(a), (b) and (c), 41U, 41V and 41W, apply to one or more of the following, as the context requires—
  - (a) Lloyd’s;
  - (b) a member of Lloyd’s who carries on insurance business in Hong Kong;
  - (c) the members of Lloyd’s taken together who carry on insurance business in Hong Kong.
- (2) A reference in those provisions to an insurer or authorized insurer is a reference to one or more of Lloyd’s, the member and the group of members.

- (3) A reference in those provisions to a controller is a reference to the authorized representative appointed under section 50B.”.

**63. Section 51 amended (exempted persons)**

- (1) Section 51(f)—

**Repeal**

“within the meaning of section 2 of the Banking Ordinance (Cap. 155)”.

- (2) Section 51(f), English text—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

**64. Section 53A amended (secrecy)**

- (1) Section 53A(1)—

**Repeal**

“Except in the exercise”

**Substitute**

“Except in the performance”.

- (2) Section 53A(1)(a)—

**Repeal**

everything after “with regard to”

**Substitute**

“a matter coming to that person’s knowledge either—

- (i) by reason of that person’s appointment under this Ordinance; or

- (ii) in the course of—
  - (A) performing a function under this Ordinance, or carrying into effect any provision of this Ordinance; or
  - (B) assisting another person in performing a function under this Ordinance, or carrying into effect any provision of this Ordinance;”.
- (3) Section 53A(1AA)—  
**Repeal**  
 “shall apply to any person who is or has been”  
**Substitute**  
 “applies to the following persons”.
- (4) Section 53A(1AA)—  
**Repeal paragraphs (a) and (b)**  
**Substitute**  
 “(a) the Authority;  
 (b) a person who is or has been a member, employee, agent, consultant or advisor of the Authority;  
 (ba) a person who has been the former authority;  
 (bb) a person who has been a member, employee, agent, consultant or advisor of the former authority;”.
- (5) Section 53A(1AA)(c), before “an Advisor”—  
**Add**  
 “a person who is or has been”.
- (6) Section 53A(1AA)(d), before “a Manager”—  
**Add**  
 “a person who is or has been”.

- (7) Section 53A(1AA)—  
**Repeal paragraph (e)**  
**Substitute**  
 “(e) a person who is or has been employed by, or who is or has assisted a person mentioned in paragraph (c) or (d),”.
- (8) Section 53A(1AA)—  
**Repeal**  
 “exercises or has exercised”  
**Substitute**  
 “performs or has performed”.
- (9) After section 53A(1AA)—  
**Add**  
 “(1AAB) Subsection (1) also applies to the following persons—
  - (a) a person who is or has been appointed under any provision of this Ordinance;
  - (b) a person who is or has been performing a function under this Ordinance, or carrying into effect any provision of this Ordinance;
  - (c) a person who is or has assisted another person in performing a function under this Ordinance, or carrying into effect any provision of this Ordinance.”.
- (10) Section 53A(1A)—  
**Repeal**  
 “an insurer”  
**Substitute**  
 “an authorized insurer”.
- (11) Section 53A(2)—

**Repeal**

“, 53E or 61(1)(a)”

**Substitute**

“or 53E”.

(12) Section 53A(2)—

**Repeal**

“exercise”

**Substitute**

“performance”.

(13) Section 53A(3)—

**Repeal paragraph (a)****Substitute**

“(a) in the form of a summary compiled from similar or related information provided by authorized insurers or licensed insurance intermediaries if the summary is so compiled as to prevent particulars relating to the business of those insurers or intermediaries from being ascertained from the summary;

(ab) for seeking advice from, or giving advice by, a counsel or a solicitor, or any other professional advisor acting or proposing to act in a professional capacity, in connection with a matter arising under this Ordinance;

(ac) for, or otherwise in connection with, an audit required by section 5F;”.

(14) After section 53A(3)(c)—

**Add**

“(ca) to the Tribunal in connection with any proceedings in the Tribunal;

(cb) by a person in connection with any judicial or other proceedings to which the person is a party;

(cc) in compliance with an order of a court, or in compliance with a law or a requirement made under a law;”.

(15) Section 53A(3)(e)—

**Repeal**

everything before “, in the opinion”

**Substitute**

“(e) to any of the persons specified in subsection (3AA) if”.

(16) Section 53A(3)(e)(ii)—

**Repeal**

“exercise”

**Substitute**

“perform”.

(17) After section 53A(3)(e)—

**Add**

“(ea) to the Financial Secretary, the Secretary for Justice, the Commissioner of Police, the Commissioner of the Independent Commission Against Corruption and the Tribunal, if the information is obtained by an investigator under sections 41D and 64ZZH;”.

(18) Section 53A(3)(f)—

**Repeal**

“, an authorized insurance broker or a body of insurance brokers approved under section 70”

**Substitute**

“or a licensed insurance broker company”.

(19) Section 53A(3)(f)—

**Repeal**

“perform”

**Substitute**

“discharge”.

- (20) Section 53A(3)(i)(A) and (C)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (21) After section 53A(3)—

**Add**

“(3AA) The following persons are specified for the purposes of subsection (3)(e)—

- (a) the Chief Executive;
- (b) the Financial Secretary;
- (c) the Secretary for Justice;
- (d) an inspector appointed by the Financial Secretary under section 840 or 841 of the Companies Ordinance (Cap. 622) to investigate the affairs of a company;
- (e) a person holding an authorized statutory office;
- (f) a public officer authorized by the Financial Secretary for the purposes of subsection (3)(e).”.

- (22) Section 53A(3B)—

**Repeal**

“(3)(e)”

**Substitute**

“(3AA)”.

- (23) Section 53A(3B)(a)—

**Repeal**

“exercise”

**Substitute**

“performance”.

- (24) Section 53A(3D), after “(3)(a),”—

**Add**

“(g),”.

- (25) After section 53A(3D)—

**Add**

“(3DA) Subsection (3D) does not apply if—

- (a) the information, or any part of it, has already been made available to the public;
- (b) the disclosure is for seeking advice from, or giving advice by, a counsel or a solicitor, or any other professional advisor acting or proposing to act in a professional capacity, in connection with a matter arising under this Ordinance;
- (c) the disclosure is in connection with any judicial or other proceedings to which the person or the other person referred to in subsection (3D)(a) or (b) is a party; or
- (d) the disclosure is in compliance with an order of a court, or in compliance with a law or a requirement made under a law.”.

- (26) After section 53A(3E)—

**Add**

- “(3F) In disclosing information in any of the circumstances described in subsection (3) or in granting a consent under subsection (3D), the Authority may impose the conditions that it considers appropriate.
- (3G) The Monetary Authority may attach a condition to a disclosure of information made by the Monetary Authority under this section that neither—
- (a) the person to whom the information is disclosed; nor
  - (b) a person obtaining or receiving the information, whether directly or indirectly, from the person referred to in paragraph (a),
- may disclose the information, or any part of it, to any other person without the consent of the Monetary Authority.
- (3H) Subsection (3G) does not apply to the disclosure of information made by the Monetary Authority to the Authority.
- (3I) Subsection (1) does not affect the operation of section 13(3) of The Ombudsman Ordinance (Cap. 397) or section 44(8) of the Personal Data (Privacy) Ordinance (Cap. 486).”
- (27) Section 53A—  
**Repeal subsection (5).**
- (28) Section 53A—  
**Repeal subsection (6).**
- (29) At the end of section 53A—  
**Add**
- “(7) In this section, a reference to this Ordinance means this Ordinance as amended from time to time.”

**65. Section 53B amended (disclosure of information)**

- (1) Section 53B(1)(a)—

**Repeal**

“exercises”

**Substitute**

“performs”.

- (2) Section 53B(1)(b)(iii)—

**Repeal**

“exercise”

**Substitute**

“perform”.

- (3) After section 53B(1A)—

**Add**

“(1B) Without limiting subsection (1), the information so disclosed to an authority in a place outside Hong Kong by the Authority may include information on matters relating to the affairs of a licensed insurance intermediary.”

**66. Section 53C amended (examination by external authorities)**

- (1) After section 53C(1)—

**Add**

“(1A) A licensed insurance agency must permit an insurance supervisory authority of a place outside Hong Kong to examine its books, accounts and transactions in Hong Kong if—

- (a) that agency—



- (i) is incorporated, or has its principal place of business, in that place; or
    - (ii) is incorporated in or outside Hong Kong and is a subsidiary or associate of an insurance agency incorporated, or which has its principal place of business, in that place; and
  - (b) that insurance supervisory authority has, subject to subsection (2), the approval of the Authority to carry out such an examination.
- (1B) A licensed insurance broker company must permit an insurance supervisory authority of a place outside Hong Kong to examine its books, accounts and transactions in Hong Kong if—
- (a) that company—
    - (i) is incorporated, or has its principal place of business, in that place; or
    - (ii) is incorporated in or outside Hong Kong and is a subsidiary or associate of an insurance broker company incorporated, or which has its principal place of business, in that place; and
  - (b) that insurance supervisory authority has, subject to subsection (2), the approval of the Authority to carry out such an examination.”.
- (2) Section 53C(2)—
- Repeal**
- “subsection (1)(b)”
- Substitute**
- “subsections (1)(b), (1A) and (1B)”.

**67. Section 53D amended (communication by prescribed person with Insurance Authority)**

Section 53D(2)—

**Repeal**

“other than an insurer or a former insurer.”

**Substitute**

“other than—

- (a) an authorized insurer;
- (b) a former insurer;
- (c) a licensed insurance broker company;
- (d) a former licensed insurance broker company; or
- (e) a person who was formerly an authorized insurance broker within the meaning of the pre-amended Ordinance.”.

**68. Section 53E amended (prescribed person to send report directly to Insurance Authority in certain cases)**

- (1) Section 53E, heading, after “**certain cases**”—

**Add**

“**relating to authorized insurers**”.

- (2) Section 53E(1), English text—

**Repeal**

“performance”

**Substitute**

“discharge”.

- (3) Section 53E(1)—

**Repeal**

“insurer concerned”

**Substitute**

“authorized insurer concerned”.

- (4) Section 53E(2), English text—

**Repeal**

“performance”

**Substitute**

“discharge”.

- (5) Section 53E(2)—

**Repeal**

“insurer concerned”

**Substitute**

“authorized insurer concerned”.

- (6) Section 53E(2)(a) and (b), Chinese text, before “保險人”—

**Add**

“該”.

- (7) Section 53E(3), English text—

**Repeal**

“performance”

**Substitute**

“discharge”.

- (8) Section 53E(3)—

**Repeal**

“insurer concerned”

**Substitute**

“authorized insurer concerned”.

- (9) Section 53E(3)(b) and (d), Chinese text, before “保險人”—

**Add**

“該”.

**69. Section 53F added**

Part VIIIA, after section 53E—

**Add**

**“53F. Prescribed person to send report directly to Authority in certain cases relating to licensed insurance broker companies, etc.**

- (1) This section applies if—

- (a) a prescribed person who is an auditor of a specified broker becomes aware of evidence of a failure by the specified broker to comply with the specified rules when the person discharges duties in the capacity as an auditor of the specified broker; or
- (b) a prescribed person who is a former auditor of a specified broker becomes aware of evidence of a failure by the specified broker to comply with the specified rules when the person discharged duties in the capacity as a former auditor of the specified broker.

- (2) The prescribed person must, as soon as practicable after becoming aware of the evidence, send to the Authority a report in writing of the failure.

- (3) In subsection (1)(b), a reference to evidence includes evidence of which the prescribed person became aware when the person was an auditor of the specified broker.

- (4) In this section—

***specified broker*** (指明經紀) means—

- (a) a licensed insurance broker company;

- (b) a former licensed insurance broker company; or
- (c) a person who was formerly an authorized insurance broker within the meaning of the pre-amended Ordinance;

*specified rules* (指明規則)—

- (a) in relation to a licensed insurance broker company or a former licensed insurance broker company, means rules made under section 127 that set out the requirements—
  - (i) in relation to the capital and net assets of a licensed insurance broker company;
  - (ii) in relation to the professional indemnity insurance taken out by a licensed insurance broker company;
  - (iii) in relation to the keeping of separate client accounts by a licensed insurance broker company; and
  - (iv) in relation to the keeping of proper books and accounts by a licensed insurance broker company;
- (b) in relation to a person who was formerly an authorized insurance broker within the meaning of the pre-amended Ordinance, means the minimum requirements specified by the former authority under the pre-amended Ordinance—
  - (i) in relation to the capital and net assets of an authorized insurance broker;
  - (ii) in relation to the professional indemnity insurance taken out by an authorized insurance broker;

- (iii) in relation to the keeping of separate client accounts by an authorized insurance broker; and
- (iv) in relation to the keeping of proper books and accounts by an authorized insurance broker.”.

**70. Part IX repealed (supplementary and transitional)**

- (1) Section 55A—  
**Repeal the section.**
- (2) Part IX—  
**Repeal the Part.**

**71. Part X, Divisions 1 to 4, and Division 5 heading added**

Part X, before section 65—

**Add****“Division 1—Preliminary****64F. Interpretation of Part X**

In this Part—

*business record* (業務紀錄), in relation to a licensed insurance intermediary, means a record or document relating to a regulated activity carried on by the intermediary;

*controller* (控權人)—

- (a) in relation to a sole proprietorship—
  - (i) means an individual who ultimately owns or controls the carrying on of regulated activities by the sole proprietorship; or

- (ii) if the sole proprietor is acting on behalf of another person, means the other person;
- (b) in relation to a partnership, means an individual who—
  - (i) is entitled to or controls, directly or indirectly, not less than a 15% share of the capital or profits of the partnership;
  - (ii) is, directly or indirectly, entitled to exercise or control the exercise of not less than 15% of the voting rights in the partnership; or
  - (iii) exercises ultimate control over the management of the partnership; or
- (c) in relation to a company, means an individual who—
  - (i) owns or controls, directly or indirectly, including through a trust or bearer share holding, not less than 15% of the issued share capital of the company;
  - (ii) is, directly or indirectly, entitled to exercise or control the exercise of not less than 15% of the voting rights at general meetings of the company; or
  - (iii) exercises ultimate control over the management of the company;

**inspector** (查察員) means a person appointed as an inspector under section 64ZZF(6);

**investigator** (調查員) means a person directed or appointed by the Authority under section 64ZZH(1) to investigate any matter;

**licence** (牌照)—

- (a) in relation to a licensed insurance agency—means an insurance agency licence granted under section 64U or renewed under section 64ZV;
- (b) in relation to a licensed individual insurance agent—means an individual insurance agent licence granted under section 64W or renewed under section 64ZV;
- (c) in relation to a licensed technical representative (agent)—means a technical representative (agent) licence granted under section 64Y or renewed under section 64ZV;
- (d) in relation to a licensed insurance broker company—means an insurance broker company licence granted under section 64ZA or renewed under section 64ZV; or
- (e) in relation to a licensed technical representative (broker)—means a technical representative (broker) licence granted under section 64ZC or renewed under section 64ZV;

**licensee** (持牌人), in relation to a licence, means the holder of the licence.

## Division 2—Restrictions

### 64G. Restrictions on carrying on regulated activities

- (1) A person must not carry on a regulated activity—
  - (a) in the course of the person's business or employment; or
  - (b) for reward.
- (2) A person must not hold out that the person—

- (a) is carrying on a regulated activity in the course of the person's business or employment; or
- (b) is carrying on a regulated activity for reward.
- (3) This section does not—
  - (a) prohibit a licensed insurance agency from—
    - (i) carrying on regulated activities as an agent of an authorized insurer by which the licensed insurance agency is appointed; or
    - (ii) holding out that the licensed insurance agency carries on regulated activities as such an agent;
  - (b) prohibit a licensed individual insurance agent from—
    - (i) carrying on regulated activities as an agent of an authorized insurer by which the licensed individual insurance agent is appointed; or
    - (ii) holding out that the licensed individual insurance agent carries on regulated activities as such an agent;
  - (c) prohibit a licensed technical representative (agent) from—
    - (i) carrying on regulated activities as an agent of a licensed insurance agency by which the licensed technical representative (agent) is appointed; or
    - (ii) holding out that the licensed technical representative (agent) carries on regulated activities as such an agent;
  - (d) prohibit a licensed insurance broker company from—

- (i) carrying on regulated activities specified in section 1(a) of Part 1 of Schedule 1A as an agent of a policy holder or potential policy holder;
- (ii) holding out that the licensed insurance broker company carries on regulated activities specified in section 1(a) of Part 1 of Schedule 1A as such an agent;
- (iii) carrying on regulated activities specified in section 1(b), (c) and (d) of Part 1 of Schedule 1A; or
- (iv) holding out that the licensed insurance broker company carries on regulated activities specified in section 1(b), (c) and (d) of Part 1 of Schedule 1A; or
- (e) prohibit a licensed technical representative (broker) from—
  - (i) carrying on regulated activities as an agent of a licensed insurance broker company by which the licensed technical representative (broker) is appointed; or
  - (ii) holding out that the licensed technical representative (broker) carries on regulated activities as such an agent.
- (4) A person who, without reasonable excuse, contravenes subsection (1) or (2) commits an offence and is liable—
  - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years and, in the case of a continuing offence, to a further fine of \$20,000 for each day during which the offence continues; or

- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months and, in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

- (5) This section is subject to section 121.

**64H. Application of section 64G in relation to marketing insurance services outside Hong Kong**

- (1) If a person actively markets to the public, from a place outside Hong Kong, insurance services that the person provides, the person is to be regarded as holding out that the person is carrying on a regulated activity for the purposes of section 64G(2).
- (2) Subsection (1) applies regardless of whether the insurance services are marketed by the person or someone on behalf of the person.
- (3) In this section—

*insurance services* (保險服務) means services that would constitute a regulated activity if the services were provided in Hong Kong.

**64I. Restrictions in relation to number of authorized insurers of each licensed insurance agency, etc.**

- (1) A person must not, at any time, be appointed as a licensed insurance agency or licensed individual insurance agent in carrying on a regulated activity for more than the maximum number of authorized insurers that are prescribed by rules made under section 127.
- (2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 6.
- (3) If an authorized insurer knows that a person is appointed as a licensed insurance agency or licensed individual

insurance agent in carrying on regulated activities for the prescribed maximum number or more of authorized insurers, that insurer must not appoint that person to carry on a regulated activity as an agent of the insurer.

- (4) An authorized insurer which contravenes subsection (3) commits an offence and is liable—

- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or

- (b) on summary conviction to a fine at level 6.

**64J. Restrictions in relation to personnel of licensed insurance agencies**

- (1) This section applies to a person who is—

- (a) a proprietor or a partner of a licensed insurance agency; or
- (b) a director or an employee of a licensed insurance agency who deals with any matter that relates to a regulated activity of the agency.

- (2) The person must not also be—

- (a) a proprietor or a partner of another licensed insurance agency;
- (b) a licensed individual insurance agent;
- (c) a licensed technical representative (agent) of another licensed insurance agency;
- (d) a licensed technical representative (broker);
- (e) a director or an employee of another licensed insurance agency who deals with any matter that relates to a regulated activity of that other agency; or

- (f) a director or an employee of a licensed insurance broker company who deals with any matter that relates to a regulated activity of that company.
- (3) A person who contravenes subsection (2) commits an offence and is liable to a fine at level 6 and to imprisonment for 6 months.

**64K. Restrictions in relation to personnel of licensed insurance broker companies**

- (1) This section applies to a person who—
  - (a) is a director or an employee of a licensed insurance broker company; and
  - (b) deals with any matter that relates to a regulated activity of the company.
- (2) The person must not also be—
  - (a) a proprietor or a partner of a licensed insurance agency;
  - (b) a licensed individual insurance agent;
  - (c) a licensed technical representative (agent); or
  - (d) a director or an employee of a licensed insurance agency who deals with any matter that relates to a regulated activity of the agency.
- (3) A person who contravenes subsection (2) commits an offence and is liable to a fine at level 6 and to imprisonment for 6 months.

**64L. Restrictions in relation to licensed technical representatives (agent)**

- (1) A person who is a licensed technical representative (agent) of a licensed insurance agency must not also be a

- licensed technical representative (agent) of another licensed insurance agency.
- (2) A person who is a licensed technical representative (agent) must not carry on regulated activities in a line of business unless the licensed insurance agency by which the person is appointed is also licensed to carry on regulated activities in that line of business.

**64M. Restrictions in relation to licensed technical representatives (broker)**

A person who is a licensed technical representative (broker) must not carry on regulated activities in a line of business unless the licensed insurance broker company by which the person is appointed is also licensed to carry on regulated activities in that line of business.

**64N. Contracts of insurance made through persons other than licensed insurance intermediaries, etc.**

- (1) An authorized insurer must not enter into a contract of insurance through another person in Hong Kong unless—
  - (a) that person is a licensed insurance intermediary; or
  - (b) that person's duties only involve clerical or administrative duties.
- (2) An authorized insurer must not accept a referral of insurance business from another person in Hong Kong unless—
  - (a) that person is a licensed insurance intermediary; or
  - (b) that person's duties only involve clerical or administrative duties.

- (3) If an authorized insurer enters into a contract of insurance in contravention of subsection (1), the contract, at the option of the policy holder—
  - (a) is enforceable against the insurer by the policy holder despite the contravention; or
  - (b) is void because of the contravention.
- (4) A policy holder who under subsection (3)(b) opts to void a contract of insurance before the expiry of the contract is entitled to recover any consideration paid by the policy holder under the contract.
- (5) An authorized insurer which contravenes subsection (1) or (2) commits an offence and is liable—
  - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

### **Division 3—Licensing**

#### **Subdivision 1—Register and Maintenance of Register**

##### **640. Register of licensed insurance intermediaries**

- (1) The Authority must keep a register of licensed insurance intermediaries, in a form it thinks fit, containing—
  - (a) the name or names, and the reference number assigned by the Authority, of each licensed insurance intermediary, and if applicable, the name of each of its responsible officers;
  - (b) the business address of each licensed insurance intermediary;

- (c) the conditions of the licence of each licensed insurance intermediary;
- (d) the conditions of approval of each responsible officer;
- (e) the period for which the licence of each licensed insurance intermediary is valid;
- (f) in relation to each licensed insurance agency—
  - (i) the name of each of the authorized insurers by which the licensed insurance agency is appointed;
  - (ii) the date of appointment; and
  - (iii) the date that the appointment terminated (if applicable);
- (g) in relation to each licensed individual insurance agent—
  - (i) the name of each of the authorized insurers by which the licensed individual insurance agent is appointed;
  - (ii) the date of appointment; and
  - (iii) the date that the appointment terminated (if applicable);
- (h) in relation to each licensed technical representative (agent)—
  - (i) the name of the licensed insurance agency by which the licensed technical representative (agent) is appointed;
  - (ii) the date of appointment;
  - (iii) the date that the appointment terminated (if applicable); and



- (iv) information on whether the licensed technical representative (agent) is a responsible officer of the licensed insurance agency;
  - (i) in relation to each licensed technical representative (broker)—
    - (i) the name of each of the licensed insurance broker company by which the licensed technical representative (broker) is appointed;
    - (ii) the date of appointment;
    - (iii) the date that the appointment terminated (if applicable); and
    - (iv) information on whether the licensed technical representative (broker) is a responsible officer of the licensed insurance broker company;
  - (j) the line or lines of business which each licensed insurance intermediary may carry on;
  - (k) a record of every disciplinary action (except a private reprimand) taken by a specified authority against any licensed insurance intermediary or responsible officer in the last 5 years, and if a suspension is involved, the period of the suspension;
  - (l) if a licence is suspended under this Part, a note to that effect;
  - (m) if a licensed insurance broker company notifies the Authority of cessation of carrying on regulated activities under section 64T, a note to that effect; and
  - (n) any other particulars that are prescribed by rules made under section 127.
- (2) A person may, at all reasonable times—

- (a) if the register is kept in a documentary form—inspect the register free of charge; or
  - (b) if the register is kept otherwise than in a documentary form—inspect a reproduction in a legible form of any information recorded in the register free of charge.
- (3) A person may, at all reasonable times and on payment of a prescribed fee, obtain—
- (a) a copy of an entry in, or extract of, the register; or
  - (b) a copy of the entry or extract, certified by an authorized officer of the Authority as a true copy of the entry or extract.
- (4) A right under subsection (2) or (3) is only exercisable for enabling a person—
- (a) to ascertain whether the person is dealing with a licensed insurance intermediary or a responsible officer in matters of or connected with any regulated activity; or
  - (b) to ascertain the particulars of—
    - (i) the licensing of a person as a licensed insurance intermediary; or
    - (ii) the approval of an individual as a responsible officer.
- (5) In any legal proceedings—
- (a) a document purporting to be a copy of an entry in, or extract of, the register, and purporting to be certified by an authorized officer of the Authority as a true copy of the entry or extract, is admissible in evidence on its production without further proof; and

- (b) unless there is evidence to the contrary, on being admitted in evidence under paragraph (a), the document—
  - (i) is presumed to be certified by an authorized officer of the Authority;
  - (ii) is presumed to be a true copy of the entry or extract; and
  - (iii) is proof of its contents.
- (6) The Authority must, as far as practicable, make the register available to any person for inspection free of charge on the Internet.
- (7) In this section—

**commencement date** (生效日期) means the date on which section 71 of the Amendment Ordinance comes into operation;

**specified authority** (指明當局) means—

- (a) in relation to a disciplinary action taken on or after the commencement date—the Authority; or
- (b) in relation to a disciplinary action taken before the commencement date—
  - (i) the Insurance Agents Registration Board set up by the Hong Kong Federation of Insurers; or
  - (ii) a body of insurance brokers approved under section 70 of the pre-amended Ordinance.

#### **64P. Duty to notify Authority of change in particulars**

- (1) This section applies if there is a change in any of the particulars specified in subsection (2) of a licensed insurance intermediary or a responsible officer of a

licensed insurance intermediary after the particulars are provided by the licensed insurance intermediary for a licence application.

- (2) The particulars are—
  - (a) name;
  - (b) business or residential address;
  - (c) telephone and fax numbers;
  - (d) electronic mail address; and
- (e) any other particulars that are prescribed by rules made under section 127.(3) The licensed insurance intermediary must notify the Authority in writing of any change of particulars within 14 days after the date on which the change takes place.
- (4) A notification under subsection (3) must be accompanied by a prescribed fee.
- (5) The Authority must, as soon as practicable after receiving a notification under subsection (3), amend any relevant particulars in the register kept under section 64O.
- (6) A licensed insurance intermediary who, without reasonable excuse, contravenes subsection (3) commits an offence and is liable to a fine at level 5.

#### **64Q. Duty to notify Authority of appointment**

- (1) At least one month before an authorized insurer appoints a licensed insurance agency to carry on regulated activities in one or more lines of business as an agent of the insurer, the insurer must notify the Authority in writing of the intended appointment.

- (2) At least one month before an authorized insurer appoints a licensed individual insurance agent to carry on regulated activities in one or more lines of business as an agent of the insurer, the insurer must notify the Authority in writing of the intended appointment.
- (3) At least one month before a licensed insurance agency appoints a licensed technical representative (agent) to carry on regulated activities in one or more lines of business as an agent of the agency, the agency must notify the Authority in writing of the intended appointment.
- (4) At least one month before a licensed insurance broker company appoints a licensed technical representative (broker) to carry on regulated activities in one or more lines of business as an agent of the company, the company must notify the Authority in writing of the intended appointment.
- (5) The notification must be accompanied by—
  - (a) a prescribed fee; and
  - (b) the particulars that are prescribed by rules made under section 127.
- (6) The Authority must, after receiving a notification under subsection (1), (2), (3) or (4), update the register kept under section 64O accordingly unless the Authority is of the view that—
  - (a) in relation to subsection (1), the licensed insurance agency has not complied with, or will be unable to comply with, the provisions of this Ordinance relating to a licensed insurance agency;
  - (b) in relation to subsection (2), the licensed individual insurance agent has not complied with, or will be

- unable to comply with, the provisions of this Ordinance relating to a licensed individual insurance agent;
- (c) in relation to subsection (3), the licensed technical representative (agent) has not complied with, or will be unable to comply with, the provisions of this Ordinance relating to a licensed technical representative (agent); or
- (d) in relation to subsection (4), the licensed technical representative (broker) has not complied with, or will be unable to comply with, the provisions of this Ordinance relating to a licensed technical representative (broker).
- (7) A person who contravenes subsection (1), (2), (3) or (4) commits an offence and is liable to a fine at level 5.

#### **64R. Duty to notify Authority of termination of appointment**

- (1) Within 14 days after the date on which an authorized insurer terminates the appointment of a licensed insurance agency or licensed individual insurance agent, the insurer must notify the Authority in writing of the termination.
- (2) Within 14 days after the date on which a licensed insurance agency terminates the appointment of a licensed technical representative (agent), the agency must notify the Authority in writing of the termination.
- (3) Within 14 days after the date on which a licensed insurance broker company terminates the appointment of a licensed technical representative (broker), the company must notify the Authority in writing of the termination.
- (4) Within 14 days after the date on which the appointment of a responsible officer of a licensed insurance agency or

licensed insurance broker company is terminated, the agency or company must notify the Authority in writing of the termination.

- (5) The Authority must, as soon as practicable after receiving a notification under subsection (1), (2), (3) or (4), amend any relevant particulars in the register kept under section 64O.
- (6) A person who contravenes subsection (1), (2), (3) or (4) commits an offence and is liable to a fine at level 5.

#### **64S. Application for varying lines of business**

- (1) A licensed insurance intermediary may apply to the Authority for the approval of the variation of a line of business specified in the licence of the intermediary.
- (2) The Authority may approve the variation of a line of business of the applicant—
  - (a) on an application made in the manner specified by the Authority; and
  - (b) on payment of a prescribed fee.
- (3) The application under subsection (1) must be accompanied by the particulars that are prescribed by rules made under section 127.
- (4) The Authority must not approve the variation unless it is satisfied that the applicant is a fit and proper person to carry on regulated activities in the line or lines of business after the variation.
- (5) The Authority must give the applicant a notice in writing of the result of the application made under subsection (1).
- (6) If the application is rejected, the notice must include a statement of the reasons for the rejection.

- (7) The Authority must, as soon as practicable after granting the approval under subsection (2), amend any relevant particulars in the register kept under section 64O.

#### **64T. Duty to notify Authority of cessation of carrying on of regulated activities by licensed insurance broker companies**

- (1) At least 3 months before a licensed insurance broker company ceases to carry on regulated activities, the company must notify the Authority in writing of the intention to do so and the intended date of cessation.
- (2) A licensed insurance broker company which ceases to carry on regulated activities must prepare—
  - (a) an auditor's report on the financial statements which are to be made up to (and including) the date of cessation;
  - (b) an auditor's report stating whether the auditor is of the opinion that the company has, until the date of cessation, continued to comply with rules made under section 127 that set out the requirements—
    - (i) in relation to the capital and net assets of a licensed insurance broker company;
    - (ii) in relation to the professional indemnity insurance taken out by a licensed insurance broker company;
    - (iii) in relation to the keeping of separate client accounts by a licensed insurance broker company; and
    - (iv) in relation to the keeping of proper books and accounts by a licensed insurance broker company; and

- (c) any other documents that are prescribed by rules made under section 127.
- (3) A licensed insurance broker company must submit to the Authority the documents specified in subsection (2) not later than 6 months after the date of cessation.
- (4) The Authority must, as soon as practicable after receiving a notification under subsection (1), amend any relevant particulars in the register kept under section 64O.
- (5) A licensed insurance broker company which, without reasonable excuse, contravenes subsection (1), (2) or (3) commits an offence and is liable to a fine at level 5.

#### **Subdivision 2—First Application**

##### **64U. Grant of licence—insurance agency**

- (1) A sole proprietor, partnership or company may apply to the Authority for an insurance agency licence to carry on regulated activities in one or more lines of business, as an agent of any authorized insurer.
- (2) For a partnership, the application for an insurance agency licence may only be made by a partner authorized by the partnership on behalf of the partnership and, if the licence is granted, it is to be expressed to be granted to that partner on behalf of the partnership.
- (3) An application made under subsection (1) must be accompanied by either—
  - (a) both of the following—
    - (i) an application made by an individual under section 64Y for a technical representative (agent) licence;

- (ii) an application made by the applicant under section 64ZE for the approval of the individual as a responsible officer of the applicant; or
- (b) an application made by the applicant under section 64ZE for the approval of a licensed technical representative (agent) as a responsible officer of the applicant.
- (4) On an application made in the manner specified by the Authority and on payment of a prescribed fee, the Authority may grant to the applicant an insurance agency licence to carry on regulated activities in one or more lines of business specified in the licence, as an agent of any authorized insurer.
- (5) The Authority must not grant the licence unless—
  - (a) it is satisfied that—
    - (i) if the applicant is a sole proprietor—
      - (A) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned; and
      - (B) where there is a controller in relation to the applicant, the controller is a fit and proper person to be associated with the carrying on of regulated activities in those lines of business;
    - (ii) if the applicant is a partnership—
      - (A) each partner of the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned; and

- (B) where there is a controller in relation to the applicant, the controller is a fit and proper person to be associated with the carrying on of regulated activities in those lines of business; or
- (iii) if the applicant is a company—
  - (A) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned;
  - (B) each director of the applicant is a fit and proper person to be associated with the carrying on of regulated activities in those lines of business; and
  - (C) where there is a controller in relation to the applicant, the controller is a fit and proper person to be associated with the carrying on of regulated activities in those lines of business;
- (b) it is satisfied that the applicant is appointed as an agent by at least one authorized insurer;
- (c) it is satisfied that the applicant is neither the holder of a licence granted under section 64W, 64Y, 64ZA or 64ZC nor applying for such a licence; and
- (d) it is satisfied that either—
  - (i) both of the following—
    - (A) an accompanying application is made for subsection (3)(a)(i) and the criteria for the grant of licence under section 64Y(3) are satisfied;
    - (B) an accompanying application is made for subsection (3)(a)(ii) and the criteria

- for the approval under section 64ZE(4) are satisfied; or
- (ii) an accompanying application is made for subsection (3)(b) and the criteria for the approval under section 64ZE(4) are satisfied.
- (6) If the Authority grants an application made under subsection (1), the Authority must also grant the accompanying applications made for subsection (3).
- (7) If the Authority rejects an application made under subsection (1), the Authority must also reject the accompanying applications made for subsection (3).
- (8) The Authority must give the applicant a notice in writing of the result of the application made under subsection (1).
- (9) If the application is rejected, the notice must include a statement of the reasons for the rejection.

**64V. Validity of insurance agency licence**

A licence granted under section 64U is valid for 3 years or, if the Authority considers it appropriate in a particular case, another period determined by the Authority, beginning on the date on which it is granted.

**64W. Grant of licence—individual insurance agent**

- (1) An individual may apply to the Authority for an individual insurance agent licence to carry on regulated activities in one or more lines of business, as an agent of any authorized insurer.
- (2) On an application made in the manner specified by the Authority and on payment of a prescribed fee, the Authority may grant to the applicant an individual insurance agent licence to carry on regulated activities in

one or more lines of business specified in the licence, as an agent of any authorized insurer.

- (3) The Authority must not grant the licence unless it is satisfied that—
  - (a) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned;
  - (b) the applicant is appointed as an agent by at least one authorized insurer; and
  - (c) the applicant is neither the holder of a licence granted under section 64U, 64Y or 64ZC nor applying for such a licence.
- (4) The Authority must give the applicant a notice in writing of the result of the application made under subsection (1).
- (5) If the application is rejected, the notice must include a statement of the reasons for the rejection.

#### **64X. Validity of individual insurance agent licence**

A licence granted under section 64W is valid for 3 years or, if the Authority considers it appropriate in a particular case, another period determined by the Authority, beginning on the date on which it is granted.

#### **64Y. Grant of licence—technical representative (agent)**

- (1) An individual may apply to the Authority for a technical representative (agent) licence to carry on regulated activities in one or more lines of business, as an agent of any licensed insurance agency.
- (2) On an application made in the manner specified by the Authority and on payment of a prescribed fee, the

Authority may grant to the applicant a technical representative (agent) licence to carry on regulated activities in one or more lines of business specified in the licence, as an agent of any licensed insurance agency.

- (3) The Authority must not grant the licence unless it is satisfied that—
  - (a) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned;
  - (b) the applicant is appointed as an agent by—
    - (i) a licensed insurance agency; or
    - (ii) a person who applies under section 64U for an insurance agency licence; and
  - (c) the applicant is neither the holder of a licence granted under 64U, 64W or 64ZC nor applying for such a licence.
- (4) The Authority must give the applicant a notice in writing of the result of the application made under subsection (1).
- (5) If the application is rejected, the notice must include a statement of the reasons for the rejection.

#### **64Z. Validity of technical representative (agent) licence**

A licence granted under section 64Y is valid for 3 years or, if the Authority considers it appropriate in a particular case, another period determined by the Authority, beginning on the date on which it is granted.

**64ZA. Grant of licence—insurance broker company**

- (1) A company may apply to the Authority for an insurance broker company licence to carry on—
  - (a) regulated activities specified in section 1(a) of Part 1 of Schedule 1A in one or more lines of business, as an agent of any policy holder or potential policy holder; and
  - (b) regulated activities specified in section 1(b), (c) and (d) of Part 1 of Schedule 1A in one or more lines of business.
- (2) An application made under subsection (1) must be accompanied by either—
  - (a) both of the following—
    - (i) an application made by an individual under section 64ZC for a technical representative (broker) licence;
    - (ii) an application made by the applicant under section 64ZF for the approval of the individual as a responsible officer of the applicant; or
  - (b) an application made by the applicant under section 64ZF for the approval of a licensed technical representative (broker) as a responsible officer of the applicant.
- (3) On an application made in the manner specified by the Authority and on payment of a prescribed fee, the Authority may grant to the applicant an insurance broker company licence to carry on—
  - (a) regulated activities specified in section 1(a) of Part 1 of Schedule 1A in one or more lines of business

- specified in the licence, as an agent of any policy holder or potential policy holder; and
- (b) regulated activities specified in section 1(b), (c) and (d) of Part 1 of Schedule 1A in one or more lines of business.
- (4) The Authority must not grant the licence unless it is satisfied that—
  - (a) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned;
  - (b) each director of the applicant is a fit and proper person to be associated with the carrying on of regulated activities in those lines of business;
  - (c) if there is a controller in relation to the applicant, the controller is a fit and proper person to be associated with the carrying on of regulated activities in those lines of business;
  - (d) the applicant is able to demonstrate that, if licensed, the applicant will be able to comply with rules made under section 127 that set out the requirements—
    - (i) in relation to the capital and net assets of a licensed insurance broker company;
    - (ii) in relation to the professional indemnity insurance taken out by a licensed insurance broker company;
    - (iii) in relation to the keeping of separate client accounts by a licensed insurance broker company; and



- (iv) in relation to the keeping of proper books and accounts by a licensed insurance broker company;
- (e) the applicant is neither the holder of a licence granted under section 64U nor applying for such a licence; and
- (f) either—
  - (i) both of the following—
    - (A) an accompanying application is made for subsection (2)(a)(i) and the criteria for the grant of licence under section 64ZC(3) are satisfied;
    - (B) an accompanying application is made for subsection (2)(a)(ii) and the criteria for the approval under section 64ZF(4) are satisfied; or
  - (ii) an accompanying application is made for subsection (2)(b) and the criteria for the approval under section 64ZF(4) are satisfied.
- (5) If the Authority grants an application made under subsection (1), the Authority must also grant the accompanying applications made for subsection (2).
- (6) If the Authority rejects an application made under subsection (1), the Authority must also reject the accompanying applications made for subsection (2).
- (7) The Authority must give the applicant a notice in writing of the result of the application made under subsection (1).
- (8) If the application is rejected, the notice must include a statement of the reasons for the rejection.

**64ZB. Validity of insurance broker company licence**

A licence granted under section 64ZA is valid for 3 years or, if the Authority considers it appropriate in a particular case, another period determined by the Authority, beginning on the date on which it is granted.

**64ZC. Grant of licence—technical representative (broker)**

- (1) An individual may apply to the Authority for a technical representative (broker) licence to carry on regulated activities in one or more lines of business, as an agent of any licensed insurance broker company.
- (2) On an application made in the manner specified by the Authority and on payment of a prescribed fee, the Authority may grant to the applicant a technical representative (broker) licence to carry on regulated activities in one or more lines of business specified in the licence, as an agent of any licensed insurance broker company.
- (3) The Authority must not grant the licence unless it is satisfied that—
  - (a) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned;
  - (b) the applicant is appointed as an agent by—
    - (i) at least one licensed insurance broker company; or
    - (ii) a person who applies under section 64ZA for an insurance broker company licence; and
  - (c) the applicant is neither the holder of a licence granted under section 64U, 64W or 64Y nor applying for such a licence.

- (4) The Authority must give the applicant a notice in writing of the result of the application made under subsection (1).
- (5) If the application is rejected, the notice must include a statement of the reasons for the rejection.

**64ZD. Validity of technical representative (broker) licence**

A licence granted under section 64ZC is valid for 3 years or, if the Authority considers it appropriate in a particular case, another period determined by the Authority, beginning on the date on which it is granted.

**64ZE. Approval of responsible officers of licensed insurance agencies**

- (1) A person specified in subsection (2) (*principal applicant*) may apply to the Authority for the approval of an individual as a responsible officer of the principal applicant.
- (2) The principal applicant is—
  - (a) a licensed insurance agency; or
  - (b) a person who applies under section 64U for an insurance agency licence.
- (3) On an application made in the manner specified by the Authority and on payment of a prescribed fee, the Authority may approve the individual as a responsible officer of the principal applicant.
- (4) The Authority must not approve an individual as a responsible officer of the principal applicant unless it is satisfied that—
  - (a) the individual is—
    - (i) a licensed technical representative (agent); or

- (ii) a person who applies under section 64Y for a technical representative (agent) licence;
  - (b) the individual will be fit and proper, whether solely or jointly with other responsible officers of the principal applicant, to discharge his or her responsibilities as a responsible officer of the principal applicant; and
  - (c) the individual has sufficient authority from the principal applicant, and will be provided with sufficient resources and support, for discharging those responsibilities.
- (5) The Authority must give the principal applicant and the individual a notice in writing of the result of the application made under subsection (1).
  - (6) If the application is rejected, the notice must include a statement of the reasons for the rejection.

**64ZF. Approval of responsible officers of licensed insurance broker companies**

- (1) A company specified in subsection (2) (*principal applicant*) may apply to the Authority for the approval of an individual as a responsible officer of the principal applicant.
- (2) The principal applicant is—
  - (a) a licensed insurance broker company; or
  - (b) a company which applies under section 64ZA for an insurance broker company licence.
- (3) On an application made in the manner specified by the Authority and on payment of a prescribed fee, the Authority may approve the individual as a responsible officer of the principal applicant.

- (4) The Authority must not approve an individual as a responsible officer of the principal applicant unless it is satisfied that—
- (a) the individual is—
    - (i) a licensed technical representative (broker); or
    - (ii) a person who applies under section 64ZC for a technical representative (broker) licence;
  - (b) the individual will be fit and proper, whether solely or jointly with other responsible officers of the principal applicant, to discharge his or her responsibilities as a responsible officer of the principal applicant; and
  - (c) the individual has sufficient authority from the principal applicant, and will be provided with sufficient resources and support, for discharging those responsibilities.
- (5) The Authority must give the principal applicant and the individual a notice in writing of the result of the application made under subsection (1).
- (6) If the application is rejected, the notice must include a statement of the reasons for the rejection.

**64ZG. Authority may impose conditions on granting licence or approval**

- (1) This section applies if the Authority—
- (a) grants an insurance agency licence under section 64U;
  - (b) grants an individual insurance agent licence under section 64W;

- (c) grants a technical representative (agent) licence under section 64Y;
  - (d) grants an insurance broker company licence under section 64ZA;
  - (e) grants a technical representative (broker) licence under section 64ZC;
  - (f) approves an individual as a responsible officer of a licensed insurance agency under section 64ZE; or
  - (g) approves an individual as a responsible officer of a licensed insurance broker company under section 64ZF.
- (2) The Authority may impose any conditions that it considers appropriate on the licence or approval when granting the licence or approval.
- (3) The Authority may also impose any conditions that it considers appropriate on the licence or approval after the Authority has granted the licence or approval.
- (4) The Authority may amend or revoke any conditions imposed under subsection (2) or (3).
- (5) The power under subsection (2), (3) or (4) is only exercisable by notice in writing served on—
- (a) in relation to subsection (1)(a), (b), (c), (d) or (e)—the licensee; or
  - (b) in relation to subsection (1)(f) or (g)—the licensee and the individual.
- (6) A notice under subsection (5) must, in the case of a conditions being imposed or amended, include a statement of reasons for imposing or amending the conditions.

- (7) An imposition, amendment or revocation of any conditions under subsection (2), (3) or (4) takes effect at the time the notice under subsection (5) is served or at the time specified in the notice, whichever is the later.

### **Subdivision 3—Revocation and Suspension on Non-disciplinary Grounds**

#### **64ZH. Licensed insurance agency no longer appointed by authorized insurer**

If a licensed insurance agency ceases to be appointed as an agent by at least one authorized insurer—

- (a) the licence of the licensed insurance agency is suspended on and from the date on which the cessation takes effect; and
- (b) where the cessation continues for 180 days after that date—the licence of the licensed insurance agency is revoked on the expiry of those days.

#### **64ZI. Licensed individual insurance agent no longer appointed by authorized insurer**

If a licensed individual insurance agent ceases to be appointed as an agent by at least one authorized insurer—

- (a) the licence of the licensed individual insurance agent is suspended on and from the date on which the cessation takes effect; and
- (b) where the cessation continues for 180 days after that date—the licence of the licensed individual insurance agent is revoked on the expiry of those days.

#### **64ZJ. Revocation and suspension of technical representative (agent) licence**

- (1) If a licensed technical representative (agent) ceases to be appointed as an agent by a licensed insurance agency, the licence of the licensed technical representative (agent) is suspended on and from the date on which the cessation takes effect.
- (2) If the licence of the licensed insurance agency by which a licensed technical representative (agent) is appointed is suspended under section 64ZH(a) or 64ZN(1), the licence of the licensed technical representative (agent) is suspended on and from the date on which the licence of the licensed insurance agency is suspended.
- (3) If the licence of a licensed technical representative (agent) is suspended continuously for 180 days under this section, the licence is revoked on the expiry of those days.

#### **64ZK. Revocation and suspension of technical representative (broker) licence**

- (1) If a licensed technical representative (broker) ceases to be appointed as an agent by at least one licensed insurance broker company, the licence of the licensed technical representative (broker) is suspended on and from the date on which the cessation takes effect.
- (2) If—
  - (a) a licensed technical representative (broker) is appointed by 1 licensed insurance broker company only; and
  - (b) the licence of the licensed insurance broker company by which the licensed technical

representative (broker) is appointed is suspended under section 64ZO(1),

the licence of the licensed technical representative (broker) is suspended on and from the date on which the licence of the licensed insurance broker company is suspended.

(3) If—

- (a) a licensed technical representative (broker) is appointed by more than one licensed insurance broker company; and
- (b) the licences of all the licensed insurance broker companies by which the licensed technical representative (broker) is appointed are suspended under section 64ZO(1),

the licence of the licensed technical representative (broker) is suspended on and from the date on which the licence of the last of those licensed insurance broker companies is suspended.

- (4) If the licence of a licensed technical representative (broker) is suspended continuously for 180 days under this section, the licence is revoked on the expiry of those days.

**64ZL. Revocation of approval of responsible officer of licensed insurance agency**

- (1) The approval of a person as a responsible officer of a licensed insurance agency is revoked if the person ceases to be a licensed technical representative (agent).
- (2) The Authority may revoke the approval of a person as a responsible officer of a licensed insurance agency if it is satisfied that—

- (a) the person ceases to be responsible for the conduct in relation to the licensed insurance agency's carrying on of regulated activities; or
- (b) the person ceases to have sufficient authority from the licensed insurance agency, or to be provided with sufficient resources and support, for discharging his or her responsibilities as a responsible officer of the licensed insurance agency.

- (3) The power under subsection (2) is not exercisable unless, before exercising the power, the Authority has given the individual and the licensed insurance agency—

- (a) a notice in writing of its intention to do so and the reasons for doing so; and
- (b) an opportunity to make written representations or oral representations in relation to those reasons.

- (4) A notice under subsection (3)(a) must also include a statement describing—

- (a) the right of the individual and the licensed insurance agency to make representations; and
- (b) how and when the individual and the licensed insurance agency may make representations.

**64ZM. Revocation of approval of responsible officer of licensed insurance broker company**

- (1) The approval of a person as a responsible officer of a licensed insurance broker company is revoked if the person ceases to be a licensed technical representative (broker).

- (2) The Authority may revoke the approval of a person as a responsible officer of a licensed insurance broker company if it is satisfied that—
  - (a) the person ceases to be responsible for the conduct in relation to the licensed insurance broker company's carrying on of regulated activities; or
  - (b) the person ceases to have sufficient authority from the licensed insurance broker company, or to be provided with sufficient resources and support, for discharging his or her responsibilities as a responsible officer of the licensed insurance broker company.
- (3) The power under subsection (2) is not exercisable unless, before exercising the power, the Authority has given the individual and the licensed insurance broker company—
  - (a) a notice in writing of its intention to do so and the reasons for doing so; and
  - (b) an opportunity to make written representations or oral representations in relation to those reasons.
- (4) A notice under subsection (3)(a) must also include a statement describing—
  - (a) the right of the individual and the licensed insurance broker company to make representations; and
  - (b) how and when the individual and the licensed insurance broker company may make representations.

**64ZN. Licensed insurance agencies without responsible officers**

- (1) If the Authority is satisfied that a licensed insurance agency ceases to have a responsible officer, the Authority may suspend the licence of the licensed insurance agency for a period, or until the occurrence of an event, specified by the Authority.
- (2) The Authority may revoke the licence of the licensed insurance agency if—
  - (a) the licensed insurance agency has not made an application under section 64ZE for the approval of an individual as a responsible officer of the licensed insurance agency within 90 days after the date on which the suspension takes effect; or
  - (b) the licensed insurance agency has made such an application within 90 days after the date on which the suspension takes effect and the Authority rejects the application.
- (3) The power under subsection (1) is not exercisable unless, before exercising the power, the Authority has given the licensed insurance agency—
  - (a) a notice in writing of its intention to do so and the reasons for doing so; and
  - (b) an opportunity to make written representations or oral representations in relation to those reasons.
- (4) A notice under subsection (3)(a) must also include a statement describing—
  - (a) the right of the licensed insurance agency to make representations; and
  - (b) how and when the licensed insurance agency may make representations.

**64ZO. Licensed insurance broker companies without responsible officers**

- (1) If the Authority is satisfied that a licensed insurance broker company ceases to have a responsible officer, the Authority may suspend the licence of the licensed insurance broker company for a period, or until the occurrence of an event, specified by the Authority.
- (2) The Authority may revoke the licence of the licensed insurance broker company if—
  - (a) the licensed insurance broker company has not made an application under section 64ZF for the approval of an individual as a responsible officer of the licensed insurance broker company within 90 days after the date on which the suspension takes effect; or
  - (b) the licensed insurance broker company has made such an application within 90 days after the date on which the suspension takes effect and the Authority rejects the application.
- (3) The power under subsection (1) is not exercisable unless, before exercising the power, the Authority has given the licensed insurance broker company—
  - (a) a notice in writing of its intention to do so and the reasons for doing so; and
  - (b) an opportunity to make written representations or oral representations in relation to those reasons.
- (4) A notice under subsection (3)(a) must also include a statement describing—
  - (a) the right of the licensed insurance broker company to make representations; and

- (b) how and when the licensed insurance broker company may make representations.

**64ZP. Licence revoked on death, dissolution, etc. of licensee**

A licence is revoked—

- (a) if the licensed insurance intermediary is an individual—on the death of the individual;
- (b) if the licensed insurance intermediary is a partnership—on the dissolution of the partnership; or
- (c) if the licensed insurance intermediary is a company—on the winding up of the company or on the date on which the company is struck off the Companies Register under the Companies Ordinance (Cap. 622).

**64ZQ. Licence revoked or suspended on licensed insurance intermediary's request**

- (1) The Authority may revoke the licence of a licensed insurance intermediary if the intermediary requests the Authority to do so.
- (2) The Authority may suspend the licence of a licensed insurance intermediary if the intermediary requests the Authority to do so.

**64ZR. Effect of suspension under this Subdivision**

If the licence of a person is suspended under this Subdivision, the person must, during the suspension period—

- (a) continue to be regarded for the purposes of this Ordinance, but not sections 64G, 64ZE, 64ZF, 64ZN and 64ZO, to be licensed; and
- (b) without limiting paragraph (a), continue to be required to comply with the provisions of this Ordinance relating to a licensed insurance intermediary as would apply to the person were the licence not so suspended.

**64ZS. Revocation or suspension of licence does not avoid or affect agreement, etc.**

A revocation or suspension of the licence of a person under this Subdivision does not—

- (a) avoid or affect an agreement, transaction or arrangement entered into or arranged by the person, regardless of whether the agreement, transaction or arrangement was entered into or arranged before or after the revocation or suspension; or
- (b) affect a right, obligation or liability arising under the agreement, transaction or arrangement.

**64ZT. Requirement to transfer records on revocation or suspension of licence**

- (1) If the licence of a person is revoked or suspended under this Subdivision, the Authority may, by notice in writing, require the person to transfer to a client a copy of the records relating to the client's assets or affairs, held at any time for the client as specified in the notice.
- (2) A person who, without reasonable excuse, fails to comply with a requirement imposed on the person under subsection (1) commits an offence and is liable to a fine of \$200,000 and to imprisonment for 2 years.

**64ZU. Permission to carry on business operations on revocation or suspension of licence**

- (1) If the licence of a person is revoked under section 64ZH, 64ZI, 64ZJ, 64ZK, 64ZN or 64ZO, the Authority may, by notice in writing, permit the person, subject to the conditions specified in the notice, to carry on business operations for closing down the business connected with the revocation.
- (2) If the licence of a person is suspended under section 64ZH, 64ZI, 64ZJ, 64ZK, 64ZN or 64ZO, the Authority may, by notice in writing, permit the person, subject to the conditions specified in the notice, to carry on only essential business operations for the protection of the interests of the policy holders concerned during the period of suspension.
- (3) If the Authority has granted a permission to a person under subsection (1) or (2), the person must not, because of its carrying on business operations in compliance with the permission, be regarded as having contravened section 64G or 118.
- (4) A permission under subsection (1) or (2), and the imposition of conditions under any of those subsections, take effect at the time of the service of the notice or at the time specified in the notice, whichever is the later.

**Subdivision 4—Renewal**

**64ZV. Renewal of licences**

- (1) A person licensed under section 64U, 64W, 64Y, 64ZA or 64ZC may apply to the Authority for a renewal of the licence.



- (2) For a partnership, the application for a renewal of the licence may only be made by a partner authorized by the partnership on behalf of the partnership and, if the licence is renewed, it is to be expressed to be renewed to that partner on behalf of the partnership.
- (3) An application under subsection (1) may only be made no later than 45 days before the licence is due to expire.
- (4) On an application made in the manner specified by the Authority and on payment of a prescribed fee, the Authority may renew the licence.
- (5) The Authority must not renew an insurance agency licence granted under section 64U unless—
  - (a) it is satisfied that—
    - (i) if the applicant was a sole proprietor at the time when the licence was first applied for, the applicant is a sole proprietor;
    - (ii) if the applicant was a partnership at the time when the licence was first applied for, the applicant is a partnership; or
    - (iii) if the applicant was a company at the time when the licence was first applied for, the applicant is a company;
  - (b) it is satisfied that—
    - (i) if the applicant is a sole proprietor—
      - (A) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned; and
      - (B) where there is a controller in relation to the applicant, the controller is a fit and proper person to be associated with the

- carrying on of regulated activities in those lines of business;
- (ii) if the applicant is a partnership—
  - (A) each partner of the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned; and
  - (B) where there is a controller in relation to the applicant, the controller is a fit and proper person to be associated with the carrying on of regulated activities in those lines of business; or
- (iii) if the applicant is a company—
  - (A) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned;
  - (B) each director of the applicant is a fit and proper person to be associated with the carrying on of regulated activities in those lines of business; and
  - (C) where there is a controller in relation to the applicant, the controller is a fit and proper person to be associated with the carrying on of regulated activities in those lines of business;
- (c) it is satisfied that the applicant is appointed as an agent by at least one authorized insurer; and
- (d) it is satisfied that either—
  - (i) the applicant has a responsible officer; or
  - (ii) the applicant has made an application for the approval of an individual as a responsible

- officer of the applicant under section 64ZE, and the criteria for the approval under section 64ZE(4) are satisfied.
- (6) The Authority must not renew an individual insurance agent licence granted under section 64W unless it is satisfied that—
- (a) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned; and
  - (b) the applicant is appointed as an agent by at least one authorized insurer.
- (7) The Authority must not renew a technical representative (agent) licence granted under section 64Y unless it is satisfied that—
- (a) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned; and
  - (b) the applicant is appointed as an agent by a licensed insurance agency.
- (8) The Authority must not renew an insurance broker company licence granted under section 64ZA unless it is satisfied that—
- (a) the applicant is a company;
  - (b) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned;
  - (c) each director of the applicant is a fit and proper person to be associated with the carrying on of regulated activities in those lines of business;
  - (d) if there is a controller in relation to the applicant, the controller is a fit and proper person to be

- associated with the carrying on of regulated activities in those lines of business;
- (e) the applicant is able to demonstrate that, if the licence is renewed, the applicant will be able to continue to comply with rules made under section 127 that set out the requirements—
- (i) in relation to the capital and net assets of a licensed insurance broker company;
  - (ii) in relation to the professional indemnity insurance taken out by a licensed insurance broker company;
  - (iii) in relation to the keeping of separate client accounts by a licensed insurance broker company; and
  - (iv) in relation to the keeping of proper books and accounts by a licensed insurance broker company; and
- (f) either—
- (i) the applicant has a responsible officer; or
  - (ii) the applicant has made an application for the approval of an individual as a responsible officer of the applicant under section 64ZF, and the criteria for the approval under section 64ZF(4) are satisfied.
- (9) The Authority must not renew a technical representative (broker) licence granted under section 64ZC unless it is satisfied that—
- (a) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned; and

- (b) the applicant is appointed as an agent by at least one licensed insurance broker company.
- (10) The Authority must give the applicant a notice in writing of the result of the application for a renewal made under subsection (1).
- (11) If the application is rejected, the notice must include a statement of the reasons for the rejection.

**64ZW. Amendment, revocation and imposition of conditions on renewal of licences**

- (1) On renewing a licence under section 64ZV, the Authority may amend or revoke a condition of the licence previously imposed on the licensee, or impose a new condition on the licensee, that the Authority thinks fit.
- (2) If the Authority amends or revokes a condition or imposes a new condition, the Authority must, at the time the licence is renewed, inform the licensee by notice in writing.
- (3) The notice must include a statement of reasons for imposing or amending the conditions.
- (4) An amendment, revocation or imposition of any condition under subsection (1) takes effect at the time the notice under subsection (2) is served on the licensee or at the time specified in the notice, whichever is the later.

**64ZX. Validity of licences for which applications have been made under section 64ZV**

- (1) A licence for which an application for a renewal is made under section 64ZV and which expires before the

determination of the application by the Authority remains in force—

- (a) until the licence is renewed; or
- (b) if the renewal is refused—until the Authority's decision to refuse to renew the licence takes effect.
- (2) Subsection (1) does not apply if the application for the renewal is withdrawn or the licence is revoked.

**64ZY. Validity of licences renewed under section 64ZV**

- (1) A renewal granted under section 64ZV takes effect on the day following the expiry of the licence.
- (2) A licence renewed under section 64ZV is valid for 3 years or, if the Authority considers it appropriate in a particular case, another period determined by the Authority.

**Subdivision 5—Supplementary Provisions**

**64ZZ. Applicants to provide information**

- (1) A person who applies—
  - (a) for the approval of the variation of a line of business specified in a licence under section 64S;
  - (b) for a licence under section 64U, 64W, 64Y, 64ZA or 64ZC;
  - (c) for the approval of an individual as a responsible officer under section 64ZE or 64ZF; or
  - (d) for a renewal of a licence under section 64ZV,
 must provide the Authority with information that it requires to enable it to consider the application.

- (2) In considering the application, the Authority may have regard to any information in its possession (whether provided by the applicant or not).

**64ZZA. Determination of fit and proper**

- (1) In determining whether a person is a fit and proper person for the purposes of this Division, the Authority must have regard to the following matters—
- (a) the education or other qualifications or experience of the person;
  - (b) the person's ability to carry on a regulated activity competently, honestly and fairly;
  - (c) the reputation, character, reliability and integrity of the person;
  - (d) the person's financial status or solvency;
  - (e) whether any disciplinary action has been taken against the person by—
    - (i) the Monetary Authority;
    - (ii) the Securities and Futures Commission;
    - (iii) the Mandatory Provident Fund Schemes Authority; or
    - (iv) any other authority or regulatory organization, whether in Hong Kong or elsewhere, which, in the Authority's opinion, performs a function similar to those of the Authority;
  - (f) if the person is a company in a group of companies, any information in the possession of the Authority, whether provided by the person or not, relating to—

- (i) any other company in the group of companies; or
  - (ii) any controller or director of the person or of any company referred to in subparagraph (i);
  - (g) the state of affairs of any other business which the person carries on or proposes to carry on.
- (2) In determining whether a person is a fit and proper person for the purposes of section 64U or 64ZA, or section 64ZV for the renewal of a licence granted under section 64U or 64ZA, the Authority must also have regard to any information in its possession whether provided by the person or not relating to—
- (a) any other person who is or is to be employed by, or associated with the person for the purposes of carrying on regulated activities;
  - (b) any other person who is or will be acting for or on behalf of the person in relation to carrying on regulated activities; and
  - (c) the question as to whether the person has established effective internal control procedures and risk management systems to ensure its compliance with this Ordinance.
- (3) The obligations imposed on the Authority under subsection (1) or (2) (or both) are in addition to those of the Authority to have regard to any other matter that the Authority considers relevant in making the determination.

**64ZZB. Procedural requirements for rejecting application, or imposing or amending conditions**

- (1) The Authority must not—

- (a) reject an application made under section 64U(1) or 64ZV(1) for an insurance agency licence or a renewal of such a licence;
- (b) impose a condition under section 64ZG(2) or (3) or 64ZW(1) on granting or renewing such a licence; or
- (c) amend such a condition under section 64ZG(4) or 64ZW(1),

without giving the applicant an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.

(2) The Authority must not—

- (a) reject an application made under section 64W(1) or 64ZV(1) for an individual insurance agent licence or a renewal of such a licence;
- (b) impose a condition under section 64ZG(2) or (3) or 64ZW(1) on granting or renewing such a licence; or
- (c) amend such a condition under section 64ZG(4) or 64ZW(1),

without giving the applicant an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.

(3) The Authority must not—

- (a) reject an application made under section 64Y(1) or 64ZV(1) for a technical representative (agent) licence or a renewal of such a licence;

- (b) impose a condition under section 64ZG(2) or (3) or 64ZW(1) on granting or renewing such a licence; or
- (c) amend such a condition under section 64ZG(4) or 64ZW(1),

without giving the applicant an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.

(4) The Authority must not—

- (a) reject an application made under section 64ZA(1) or 64ZV(1) for an insurance broker company licence or a renewal of such a licence;
- (b) impose a condition under section 64ZG(2) or (3) or 64ZW(1) on granting or renewing such a licence; or
- (c) amend such a condition under section 64ZG(4) or 64ZW(1),

without giving the applicant an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.

(5) The Authority must not—

- (a) reject an application made under section 64ZC(1) or 64ZV(1) for a technical representative (broker) licence or a renewal of such a licence;
- (b) impose a condition under section 64ZG(2) or (3) or 64ZW(1) on granting or renewing such a licence; or
- (c) amend such a condition under section 64ZG(4) or 64ZW(1),

- without giving the applicant an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.
- (6) The Authority must not—
- reject an application made under section 64ZE(1) for the approval of an individual as a responsible officer of a licensed insurance agency;
  - impose a condition under section 64ZG(2) or (3) on such an approval; or
  - amend such a condition under section 64ZG(4),
- without giving the individual and the licensed insurance agency or an applicant for an insurance agency licence an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.
- (7) The Authority must not—
- reject an application made under section 64ZF(1) for the approval of an individual as a responsible officer of a licensed insurance broker company;
  - impose a condition under section 64ZG(2) or (3) on such an approval; or
  - amend such a condition under section 64ZG(4),
- without giving the individual and the licensed insurance broker company or an applicant for an insurance broker company licence an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.
- (8) In this section, a reference to an opportunity to make representations is a reference to an opportunity to make written representations or oral representations.

**64ZZC. Form of licence**

- A licence granted under section 64U, 64W, 64Y, 64ZA, or 64ZC or renewed under 64ZV must be in a form specified by the Authority and must specify—
  - the name or names of the licensee and the reference number assigned by the Authority;
  - the conditions imposed or amended;
  - the period for which the licence is valid;
  - one or more of the following lines of business which the licensee may carry on—
    - general business;
    - long term business (excluding linked long term business as referred to in Part 2 of Schedule 1);
    - long term business (including linked long term business as referred to in Part 2 of Schedule 1);
    - restricted scope travel business; and
  - any other particulars that are prescribed by rules made under section 127.
- A licence granted under section 64U or 64ZA, or the licence renewed under section 64ZV, must also specify the business address of the licensee.
- A licence granted under section 64U or 64W, or the licence renewed under section 64ZV, must also specify the name of the authorized insurer by which the licensee is appointed.
- A licence granted under section 64Y, or the licence renewed under section 64ZV, must also specify the name of—

- (a) the licensed insurance agency by which the licensee is appointed; and
  - (b) the authorized insurer by which the licensed insurance agency is appointed.
- (5) A licence granted under section 64ZC, or the licence renewed under section 64ZV, must also specify the name of the licensed insurance broker company by which the licensee is appointed.
- (6) In this section—
- restricted scope travel business*** (有限制旅保業務), in relation to a travel agent that is a licensed insurance agency—
- (a) means effecting a travel insurance policy that is tied to a tour, travel package, trip or other travel services arranged by the travel agent for its customers; and
  - (b) does not include effecting an annual travel insurance policy.

**64ZZD. Duty to notify Authority of change in partners, directors or controllers**

- (1) Within 1 month after the date on which a person becomes, or ceases to be, a partner, director or controller of a licensed insurance agency, the agency must notify the Authority in writing of that fact.
- (2) Within 1 month after the date on which a person becomes, or ceases to be, a director or controller of a licensed insurance broker company, the company must notify the Authority in writing of that fact.
- (3) A notification under subsection (1) or (2) must be accompanied by a prescribed fee.

- (4) A licensed insurance agency who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable to a fine at level 5.
- (5) A licensed insurance broker company which, without reasonable excuse, contravenes subsection (2) commits an offence and is liable to a fine at level 5.

**64ZZE. Offence to provide false information in connection with application for licence or approval**

- (1) A person commits an offence if the person, in connection with an application for the grant or renewal of a licence, or with an application for the approval, under this Division—
  - (a) makes a statement that is false or misleading in a material particular; and
  - (b) knows that, or is reckless as to whether, the statement is false or misleading in the material particular.
- (2) A person commits an offence if the person, in connection with an application for the grant or renewal of a licence, or with an application for the approval, under this Division—
  - (a) omits a material particular from a statement with the result that the statement is rendered false or misleading; and
  - (b) knows that, or is reckless as to whether, the material particular is omitted from the statement.
- (3) A person who commits an offence under subsection (1) or (2) is liable to a fine at level 5 and to imprisonment for 6 months.

**Division 4—Inspection and Investigation****Subdivision 1—Inspection and Investigation without Warrant****64ZZF. Power to conduct inspection**

- (1) An inspector may exercise the powers under subsections (2) and (3) for ascertaining whether a licensed insurance intermediary is complying with, has complied with, or is likely to be able to comply with—
  - (a) a provision of this Ordinance;
  - (b) a notice or requirement given or imposed under any provision of this Ordinance;
  - (c) a term or condition of a licence granted under this Ordinance; or
  - (d) any other condition imposed under any provision of this Ordinance.
- (2) At any reasonable time, an inspector—
  - (a) may enter any business premises of the licensed insurance intermediary;
  - (b) may inspect, and may make copies or otherwise record details of, a business record of the intermediary; and
  - (c) may make inquiries of the intermediary or a person specified in subsection (5)—
    - (i) concerning a business record of the intermediary; or
    - (ii) concerning a transaction or activity that was undertaken in the course of, or may affect, the

regulated activity carried on by the intermediary.

- (3) In exercising a power under subsection (2)(b) or (c), the inspector may require the licensed insurance intermediary, or a person specified in subsection (5)—
  - (a) to give the inspector access to a business record of the intermediary;
  - (b) to produce to the inspector, within the time and at the place specified in the requirement, a business record of the intermediary; and
  - (c) to answer a question concerning—
    - (i) a business record of the intermediary; or
    - (ii) a transaction or activity that was undertaken in the course of, or may affect, the regulated activity carried on by the intermediary.
- (4) The power under subsection (2)(c) or (3) is not exercisable in relation to a person specified in subsection (5) unless the inspector has reasonable cause to believe that the information or record being sought cannot be obtained by exercising the power in relation to the licensed insurance intermediary.
- (5) The person specified for subsections (2)(c) and (3) is a person whom the inspector has reasonable cause to believe has information relating to, or is in possession of, a business record of the licensed insurance intermediary.
- (6) The Authority may in writing appoint a person, or a person belonging to a class of persons, as an inspector for the purposes of this section.
- (7) The Authority must provide an inspector with a copy of its appointment.



- (8) When imposing a requirement on a person under subsection (3), an inspector is required to produce a copy of the appointment to that person for inspection as soon as practicable.
- (9) This section is subject to section 64ZZJ.
- (10) In this section—  
*business premises* (業務處所), in relation to a licensed insurance intermediary, means any premises at which—
  - (a) the intermediary carries on business; or
  - (b) the person by whom the intermediary is appointed as an agent carries on business.

**64ZZG. Inspector may require answer, etc. to be verified by statutory declaration**

- (1) If a person gives an answer in compliance with a requirement imposed under section 64ZZF(2)(c) or (3), the inspector may, in writing, require the person to verify, within the time specified in the requirement, the answer by a statutory declaration.
- (2) If a person does not give an answer in compliance with a requirement imposed under section 64ZZF(2)(c) or (3) for the reason that the information concerned was not within the person's knowledge or possession, the inspector may, in writing, require the person to verify, within the time specified in the requirement, by a statutory declaration, that the person did not comply with the requirement for that reason.
- (3) A statutory declaration under subsection (1) or (2) may be made before the inspector and, for that purpose, the inspector is to have full power to administer the statutory declaration.

**64ZZH. Power to conduct investigation**

- (1) If—
  - (a) the Authority has reasonable cause to believe that a provision of this Ordinance may have been contravened;
  - (b) the Authority has reasonable cause to believe that a person may have been involved in defalcation, fraud, misfeasance or other misconduct in relation to the carrying on of a regulated activity;
  - (c) the Authority has reasonable cause to believe that a person has carried on, or is carrying on, a regulated activity in a manner that is not in the interests of policy holders or potential policy holders or the public interest; or
  - (d) the Authority, for considering whether to exercise any power under section 80, has reason to enquire if—
    - (i) a person is, or was, guilty of misconduct as defined by section 79; or
    - (ii) a person is, or was, not a fit and proper person as described in section 80(1)(c),

the Authority may in writing direct one or more of its employees, or, with the consent of the Financial Secretary, appoint one or more other persons, to investigate the matter.
- (2) The Authority must consult the Monetary Authority before the Authority directs any of its employees, or appoints a person to investigate a matter in respect of—
  - (a) an authorized institution;
  - (b) a person who is, or was, employed by an authorized institution; or

- (c) a person who is, or was, appointed as an agent by an authorized institution,  
in relation to any regulated activity carried on by the institution.
- (3) The costs and expenses incurred by an investigator, other than an employee of the Authority, may be paid out of moneys provided by the Legislative Council.
- (4) The Authority must provide an investigator with a copy of its direction or appointment.
- (5) Before first imposing a requirement on a person under subsection (6), an investigator must produce a copy of the direction or appointment to that person for inspection.
- (6) An investigator may require a person specified in subsection (7)—
  - (a) to produce, within the time and at the place the investigator requires in writing, a record or document specified by the investigator that—
    - (i) is or may be relevant to the investigation; and
    - (ii) is in the person's possession;
  - (b) to give an explanation or further particulars in respect of a record or document produced;
  - (c) to attend before the investigator at the time and place the investigator requires in writing, and answer a question relating to any matter under investigation that may be raised by the investigator;
  - (d) to answer in writing, within the time the investigator requires in writing, a written question relating to any matter under investigation that may be raised by the investigator; and

- (e) to give the investigator all other assistance in connection with the investigation that the person is able to give.
- (7) The person specified for subsection (6) is—
  - (a) a person who is relevant to the matter that an investigator is directed or appointed to investigate; or
  - (b) a person whom an investigator has reasonable cause to believe—
    - (i) to be in possession of a record or document that contains, or is likely to contain, information relevant to the investigation; or
    - (ii) to be otherwise in possession of such information.
- (8) This section is subject to section 64ZZJ.

**64ZZI. Investigator may require explanation, etc. to be verified by statutory declaration**

- (1) If a person gives any explanation, particulars or answer in compliance with a requirement imposed under section 64ZZH(6), the investigator may, in writing, require the person to verify, within the time specified in the requirement, the explanation, particulars or answer by a statutory declaration.
- (2) If a person does not give any explanation, particulars or answer in compliance with a requirement imposed under section 64ZZH(6) for the reason that the information concerned was not within the person's knowledge or possession, the investigator may, in writing, require the person to verify, within the time specified in the requirement, by a statutory declaration, that the person did not comply with the requirement for that reason.

- (3) A statutory declaration under subsection (1) or (2) may be made before the investigator and, for that purpose, the investigator is to have full power to administer the statutory declaration.

**64ZZJ. Inspection and investigation powers in relation to authorized institutions**

- (1) An inspector has no power under section 64ZZF or 64ZZG to require an authorized institution to disclose any information, or to produce a record or document, relating to the affairs of a customer of the institution—
- (a) unless the inspector is a specified authority; or
  - (b) unless the inspector is satisfied that the disclosure or production is necessary for ascertaining a matter specified in section 64ZZF(1) and so certifies in writing to the institution.
- (2) An investigator has no power under section 64ZZH or 64ZZI to require an authorized institution to disclose any information, or to produce a record or document, relating to the affairs of a customer of the institution—
- (a) unless the investigator is a specified authority; or
  - (b) unless—
    - (i) the customer is a person whom the investigator has reasonable cause to believe may be able to give information relevant to the matter under investigation; and
    - (ii) the investigator is satisfied that the disclosure or production is necessary for the investigation and so certifies in writing to the institution.
- (3) In this section—

***specified authority* (指明當局)—**

- (a) in relation to subsection (1), means—
  - (i) the Monetary Authority; or
  - (ii) a person appointed by the Monetary Authority under section 64ZZF(6); or
- (b) in relation to subsection (2), means—
  - (i) the Monetary Authority; or
  - (ii) a person directed or appointed by the Monetary Authority under section 64ZZH(1).

**64ZZK. Application to Court of First Instance for inquiry into failure**

- (1) If a person fails to comply with a requirement imposed by an inspector under section 64ZZF or 64ZZG or an investigator under section 64ZZH or 64ZZI, the inspector or investigator 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).
- (4) Despite anything in this Ordinance, no proceedings may be instituted against a person for subsection (2)(b) in respect of a conduct if—
  - (a) criminal proceedings have previously been instituted against the person under section 64ZZL(1), (2), (3), (4) or (5) in respect of the same conduct; and
  - (b) those proceedings remain pending, or because of the previous institution of those proceedings, no criminal proceedings may again be lawfully instituted against that person under section 64ZZL(1), (2), (3), (4) or (5) in respect of the same conduct.

## **64ZZL. Offences in relation to inspections and investigations**

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a specified requirement imposed on the person.
- (2) A person commits an offence if the person, with intent to defraud, fails to comply with a specified requirement imposed on the person.
- (3) A person commits an offence if—
  - (a) in purported compliance with a specified requirement imposed on the person, the person produces a record or document, gives an answer, or gives any explanation or particulars, that are false or misleading in a material particular; and
  - (b) the person knows that, or is reckless as to whether, the record or document, the answer, or the

explanation or particulars, are false or misleading in the material particular.

- (4) A person commits an offence if, in purported compliance with a specified requirement imposed on the person, the person, with intent to defraud, produces a record or document, gives an answer, or gives any explanation or particulars, that are false or misleading in a material particular.
- (5) A person commits an offence if the person, with intent to defraud—
  - (a) causes or allows another person to fail to comply with a specified requirement imposed on that other person; or
  - (b) causes or allows that other person, in purported compliance with a specified requirement imposed on that other person, to produce a record or document, to give an answer, or to give any explanation or particulars, that are false or misleading in a material particular.
- (6) A person is not excused from complying with a requirement imposed on the person under section 64ZZH(6) or 64ZZI(1) only on the ground that to do so might tend to incriminate the person.
- (7) Despite anything in this Ordinance, no criminal proceedings may be instituted against a person under subsection (1), (2), (3), (4) or (5) in respect of a conduct if—
  - (a) proceedings have previously been instituted against the person under section 64ZZK(2)(b) in respect of the same conduct; and

- (b) those proceedings remain pending, or because of the previous institution of those proceedings, no proceedings may again be lawfully instituted against that person under section 64ZZK(2)(b) in respect of the same conduct.
- (8) A person who commits an offence under subsection (1) is liable—
  - (a) on conviction on indictment to a fine of \$200,000 and to imprisonment for 1 year; or
  - (b) on summary conviction to a fine at level 5 and to imprisonment for 6 months.
- (9) A person who commits an offence under subsection (3) is liable—
  - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (10) A person who commits an offence under subsection (2), (4) or (5) is liable—
  - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (11) In this section—

*specified requirement* (指明要求) means a requirement imposed under section 64ZZF(3), 64ZZG(1) or (2), 64ZZH(6) or 64ZZI(1) or (2).

### 64ZZM. Use of incriminating evidence in proceedings

- (1) If an investigator requires a person to give an answer to a question or to give an explanation or further particulars under this Division, the investigator must ensure that the person has first been informed of the effect of subsection (2).
- (2) Despite anything in this Ordinance and subject to subsection (3)—
  - (a) if an investigator requires a person to give an answer to a question or to give an explanation or further particulars under this Part; and
  - (b) the answer, or the explanation or further particulars, might tend to incriminate the person and the person so claims before giving the answer or giving the explanation or further particulars,

the requirement and the question and answer, or the explanation or further particulars, are not admissible in evidence against the person in criminal proceedings in a court of law.
- (3) Subsection (2) does not apply to criminal proceedings in which the person is, in relation to the answer, or the explanation or further particulars, charged with—
  - (a) an offence under section 64ZZL(1), (2), (3), (4) or (5), or under Part V of the Crimes Ordinance (Cap. 200); or
  - (b) perjury.

### 64ZZN. Offences in relation to destruction of records and documents

- (1) A person commits an offence if—

- (a) the person destroys, falsifies, conceals or otherwise disposes of, or causes or permits the destruction, falsification, concealment or disposal of, a record or document that the person is required by an inspector or investigator to produce under section 64ZZF or 64ZZH; and
  - (b) the person does so with intent to conceal, from the inspector or investigator, facts or matters capable of being disclosed by the record or document.
- (2) A person who commits an offence under subsection (1) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

**64ZZO. Order to pay costs of investigation**

- (1) If a person is convicted by a court on a prosecution instituted as a result of the findings of an investigation under section 64ZZH—
- (a) the court may order the person to pay to the Authority the whole or a part of the costs and expenses of the investigation; and
  - (b) the Authority may recover the whole or that part of the costs and expenses as a civil debt due to it.
- (2) Subsection (3) applies if—
- (a) the Authority receives an amount under an order made under subsection (1) in respect of any of the costs and expenses of an investigation; and

- (b) all or any of the costs and expenses have already been paid out of moneys provided by the Legislative Council.
- (3) The Authority must pay to the Financial Secretary the amount received under the order to the extent to which it has already been paid out of moneys provided by the Legislative Council.

**Subdivision 2—Magistrate's Warrants****64ZZP. Magistrate's warrants to enter premises, etc.**

- (1) This section applies if a magistrate is satisfied on information on oath laid by a person specified in subsection (3) that there are reasonable grounds to suspect that there is, or is likely to be, on premises specified in the information a record or document that may be required to be produced under section 64ZZF or 64ZZH.
- (2) If this section applies, the magistrate may issue a warrant authorizing a person mentioned in the warrant, and other persons who may be necessary to assist in the execution of the warrant—
- (a) to enter the premises, if necessary by force, at any time within the period of 7 days beginning on the date of the warrant; and
  - (b) to search for, seize and remove a record or document that the person mentioned in the warrant has reasonable cause to believe may be required to be produced under section 64ZZF or 64ZZH.
- (3) The person specified for subsection (1) is—

- (a) in relation to a record or document that may be required to be produced under section 64ZZF—an inspector; or
  - (b) in relation to a record or document that may be required to be produced under section 64ZZH—an investigator.
- (4) If an authorized person has reasonable cause to believe that a person found on the premises is employed, or engaged to provide a service, in connection with a business that is or has been conducted on the premises, the authorized person may require that person to produce for examination a record or document that—
- (a) is in the possession of that person; and
  - (b) the authorized person has reasonable cause to believe may be required to be produced under section 64ZZF or 64ZZH.
- (5) An authorized person may, in relation to a record or document required to be produced under subsection (4)—
- (a) prohibit a person found on the premises from—
    - (i) removing the record or document from the premises;
    - (ii) erasing anything from, adding anything to, or otherwise altering anything in, the record or document; or
    - (iii) otherwise interfering in any way with, or causing or permitting any other person to interfere with, the record or document; or
  - (b) take any other step that appears to the authorized person to be necessary for—
    - (i) preserving the record or document; or

- (ii) preventing interference with the record or document.
- (6) An authorized person who enters any premises under this section must, if required, produce the warrant for inspection.
- (7) Section 102 of the Criminal Procedure Ordinance (Cap. 221) applies to any property that has, because of this section, come into the possession of the Authority, as it applies to property that has come into the possession of the police.
- (8) A person commits an offence if the person—
- (a) without reasonable excuse, fails to comply with a requirement or prohibition imposed on the person under subsection (4) or (5); or
  - (b) obstructs an authorized person exercising a power conferred by subsection (4) or (5).
- (9) A person who commits an offence under subsection (8) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (10) In this section—
- authorized person** (獲授權人) means a person mentioned in, and authorized by, a warrant issued under subsection (2) to carry out the acts set out in paragraphs (a) and (b) of that subsection.

**64ZZQ. Removal of records and documents under section 64ZZP**

- (1) A record or document removed under section 64ZZP(2) may be retained—

- (a) for a period not exceeding 6 months beginning on the day of its removal; or
  - (b) for a longer period that may be required because of any criminal proceedings, or any proceedings under this Ordinance.
- (2) If an authorized person removes a record or document under section 64ZZP(2), the authorized person must, as soon as practicable after the removal, give a receipt for the record or document.

### Subdivision 3—Miscellaneous

#### 64ZZR. Lien claimed on records or documents

If the person in possession of a record or document required to be produced under section 64ZZF or 64ZZH claims a lien on the record or document—

- (a) the requirement to produce the record or document is not affected by the lien;
- (b) no fee is payable for the production; and
- (c) the production is without prejudice to the lien.

#### 64ZZS. Production of information in information systems, etc.

If any information or matter contained in a record or document required to be produced under section 64ZZF or 64ZZH is recorded otherwise than in a legible form, a power to require the production of the record or document includes the power to require the production of a reproduction of the recording of the information or matter or of the relevant part of it—

- (a) if the recording enables the information or matter to be reproduced in a legible form—in a legible form; and

- (b) if the information or matter is recorded in an information system—in a form which enables the information or matter to be reproduced in a legible form.

#### 64ZZT. Inspection of records or documents seized, etc.

- (1) If a specified person has taken possession of a record or document under this Division, the specified person must permit a person who would be entitled to inspect the record or document had the specified person not taken possession of it, to inspect it and to make copies or otherwise record details of it at all reasonable times.
- (2) The permission is subject to any reasonable conditions the specified person imposes.
- (3) In this section—

*specified person* (指明人士) means—

- (a) an authorized person within the meaning of section 64ZZP; or
- (b) an investigator.

### Division 5—Miscellaneous

#### 72. Sections 65, 66 and 67 repealed

Sections 65, 66 and 67—

**Repeal the sections.**

#### 73. Section 68 amended (insurance agent's relationship with insurer)

- (1) Section 68, heading—

**Repeal**

**“Insurance agent's relationship with insurer”**



**Substitute****“Authorized insurer’s relationship with its agent”.**

## (2) Section 68—

**Repeal subsections (1), (2), (3) and (4)****Substitute****“(1) This section applies if—**

- (a) an authorized insurer has appointed a person as an agent of the insurer; and
- (b) the person has dealings with another person for—
  - (i) the issue of a contract of insurance for that other person; or
  - (ii) insurance business relating to the contract.

## (2) If the person is appointed by 1 authorized insurer as an agent, the insurer is liable for any act of the person in relation to those dealings, whether or not the act is within the scope of the person’s authority.

## (3) If—

- (a) the person is appointed by more than one authorized insurer as an agent;
- (b) those dealings relate to a particular line of business; and
- (c) the person is appointed by only one of those insurers (*empowering insurer*) to engage in that line of business,

the empowering insurer is liable for any act of the person in relation to those dealings, whether or not the act is within the scope of the person’s authority.

## (4) If—

- (a) the person is appointed by more than one authorized insurer as an agent to engage in a particular line of business;
- (b) those dealings relate to that line of business; and
- (c) an act of the person in relation to those dealings is within the scope of the person’s authority in relation to only one of those insurers (*empowering insurer*),

the empowering insurer is liable for the act of the person in relation to those dealings.

## (4A) If—

- (a) the person is appointed by more than one authorized insurer as an agent to engage in a particular line of business;
- (b) those dealings relate to that line of business; and
- (c) an act of the person in relation to those dealings is within the scope of the person’s authority in relation to 2 or more of those insurers (*empowering insurers*),

the empowering insurers are jointly and severally liable for the act of the person in relation to those dealings.

## (4B) If—

- (a) the person is appointed by more than one authorized insurer as an agent to engage in a particular line of business;
- (b) those dealings relate to that line of business; and
- (c) an act of the person in relation to those dealings is not within the scope of the person’s authority in relation to any of those insurers,

all of those insurers are jointly and severally liable for the act of the person in relation to those dealings.

(4C) If a contract of insurance contains a provision that is inconsistent with this section, that provision is void.”

(3) Section 68(5)—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

(4) Section 68(5)—

**Repeal**

“appointed insurance agent”

**Substitute**

“person”.

(5) Section 68(6)—

**Repeal**

“subsection (4)”

**Substitute**

“this section”.

(6) Section 68(6)—

**Repeal**

“insurance agent”

**Substitute**

“person”.

**74. Section 68A added**

After section 68—

**Add**

**“68A. Validity of agency agreements**

(1) If an agreement specified in subsection (2) contains a provision purporting to affect, or having the effect of affecting the obligation of a licensed insurance intermediary under section 89(a), that provision is void.

(2) The agreement specified for subsection (1) is an agreement entered into between an authorized insurer and a licensed insurance agency or licensed individual insurance agent under which the licensed insurance agency or licensed individual insurance agent is appointed to carry on regulated activities as an agent of the insurer.”.

**75. Sections 69 and 70 repealed**

Sections 69 and 70—

**Repeal the sections.**

**76. Section 71 substituted**

Section 71—

**Repeal the section**

**Substitute**

**“71. Licensed insurance broker company’s client monies**

(1) A licensed insurance broker company must—

- (a) hold any of the monies specified in subsection (2) separate from the company’s monies; and
- (b) pay them, as soon as practicable after receiving the monies, into an account maintained by the

company with an authorized institution for holding the specified monies.

- (2) The monies specified for subsection (1) are—
  - (a) monies received by the company from or on behalf of a policy holder or potential policy holder for or on account of an insurer in connection with a contract of insurance; and
  - (b) monies received by the company from or on behalf of an insurer for or on account of a policy holder or potential policy holder.
- (3) A licensed insurance broker company must pay to an insurer, within the time as agreed with the insurer, insurance premiums received from a policy holder or potential policy holder that are due to the insurer in relation to a contract of insurance.
- (4) A licensed insurance broker company may use client monies relating to a client only for the purposes of that client.
- (5) A licensed insurance broker company is entitled to retain the interest that is earned on client monies relating to a client held in the company's client account unless the client and the company agree otherwise.
- (6) A lien or claim on client monies made by or through a licensed insurance broker company is void unless the monies in the client account of the company are for fees then due and owing to the company.
- (7) A licensed insurance broker company must not create a charge or mortgage on client monies.
- (8) A charge or mortgage on client monies created by a licensed insurance broker company is void.

- (9) A licensed insurance broker company which contravenes subsection (1), (4) or (7) commits an offence and is liable—
  - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 5 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.

#### 77. Section 72 amended (appointment of auditor)

- (1) Section 72, heading—

##### **Repeal**

##### **“Appointment of auditor”**

##### **Substitute**

##### **“Licensed insurance broker company must appoint auditor”.**

- (2) Section 72(1)—

##### **Repeal**

##### **“An insurance broker shall”**

##### **Substitute**

##### **“A licensed insurance broker company must, within 1 month after being granted a licence under section 64ZA,”.**

- (3) Section 72(1)(b)—

##### **Repeal**

##### **“an insurance broker”**

##### **Substitute**

##### **“a licensed insurance broker company”.**

- (4) Section 72—

##### **Repeal subsection (2).**

## (5) Section 72(3)—

**Repeal**

“An insurance broker shall”

**Substitute**

“A licensed insurance broker company must”.

## (6) Section 72(4)—

**Repeal**

“the insurance broker shall”

**Substitute**

“the licensed insurance broker company must”.

## (7) After section 72(4)—

**Add**

“(5) A licensed insurance broker company which contravenes this section commits an offence and is liable to a fine at level 3, and in the case of a continuing offence, to a further fine of \$500 for each day during which the offence continues.”.

**78. Section 73 substituted**

## Section 73—

**Repeal the section****Substitute****“73. Audit of licensed insurance broker company, etc.**

(1) A licensed insurance broker company must in each calendar year and within the time specified by the Authority, provide the Authority with all of the following—

- (a) a copy of the audited profit and loss account for the last preceding financial year;
- (b) a copy of the audited income and expenditure account for the last preceding financial year;
- (c) a copy of the audited balance sheet as at the end of the last preceding financial year;
- (d) an auditor’s report on the financial statements;
- (e) an auditor’s report stating whether the auditor is of the opinion that the company has continued to comply with rules made under section 127 that set out the requirements—
  - (i) in relation to the capital and net assets of a licensed insurance broker company;
  - (ii) in relation to the professional indemnity insurance taken out by a licensed insurance broker company;
  - (iii) in relation to the keeping of separate client accounts by a licensed insurance broker company; and
  - (iv) in relation to the keeping of proper books and accounts by a licensed insurance broker company;
- (f) any other information that is prescribed by rules made under section 127.

(2) A licensed insurance broker company which contravenes this section commits an offence and is 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.”.

**79. Section 74 amended (powers of Insurance Authority to require production, etc.)****(1) Section 74—****Repeal subsection (1)****Substitute****“(1) The Authority—**

- (a) may require an authorized insurer or a licensed insurance intermediary to produce, at the time and place that the Authority specifies, the books or papers that it specifies for obtaining information in relation to a regulated activity carried on by a licensed insurance intermediary; and
- (b) may authorize a person, on producing (if required to do so) evidence of the person’s authority, to require an authorized insurer or a licensed insurance intermediary to produce to the person, at the time and place that the person specifies, the books or papers that the person specifies for obtaining information in relation to a regulated activity carried on by a licensed insurance intermediary.”.

**(2) Section 74(2)—****Repeal**

“an insurer, insurance agent, insurance broker or approved body of insurance brokers”

**Substitute**

“an authorized insurer or a licensed insurance intermediary”.

**(3) Section 74(3)—****Repeal**

“an insurer, insurance agent, insurance broker or approved body of insurance brokers”

**Substitute**

“an authorized insurer or a licensed insurance intermediary”.

**(4) Section 74(3)(a)(ii)—****Repeal**

“the insurer, insurance agent, insurance broker or approved body of insurance brokers”

**Substitute**

“the authorized insurer or the licensed insurance intermediary”.

**(5) Section 74—****Repeal subsection (4).****(6) At the end of section 74—****Add**

- “(6) A person who fails to produce books or papers required under this section commits an offence and is 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.”.

**80. Section 75 repealed (withdrawal of authorization or approval)****Section 75—****Repeal the section.****81. Section 76 substituted****Section 76—****Repeal the section****Substitute**

**“76. Authority may petition for winding up or bankruptcy of licensed insurance intermediary**

- (1) The Authority may present a petition for a licensed insurance intermediary, other than a licensed insurance intermediary which is an authorized institution, to be wound up in accordance with the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) if—
  - (a) the intermediary is a company which may be wound up by the Court of First Instance under that Ordinance; and
  - (b) the Authority considers that it is in the public interest that the intermediary should be wound up.
- (2) However, the Authority may not present a petition under subsection (1) for a licensed insurance intermediary to be wound up if the intermediary is already being wound up by the Court of First Instance.
- (3) The Authority may present a petition for any of the following persons to be declared bankrupt if the Authority considers that it is in the public interest that the person should be made bankrupt—
  - (a) an individual who is a licensed insurance intermediary;
  - (b) any of the partners of a partnership which is a licensed insurance intermediary.”.

**82. Section 77 repealed (offences)**

Section 77—

**Repeal the section.****83. Section 78 amended (exemptions)****(1) Section 78—****Repeal subsection (1)****Substitute**

- “(1) Despite section 64G, neither an authorized insurer nor Lloyd’s is required to be a licensed insurance intermediary in order to—
- (a) carry on any regulated activity; or
  - (b) hold out that it is carrying on any regulated activity.”.

**(2) Section 78—****Repeal subsection (3)****Substitute**

- “(3) If a person holds out in Hong Kong—
- (a) to carry on regulated activities specified in section 1(a) of Part 1 of Schedule 1A as an agent of a policy holder or potential policy holder for contracts of reinsurance only; or
  - (b) to carry on regulated activities specified in section 1(b), (c) and (d) of Part 1 of Schedule 1A for contracts of reinsurance only,
- the person is not required to be a licensed insurance broker.

**(3A) Subsection (3) does not apply to any of the following—**

- (a) a body corporate incorporated in Hong Kong;
- (b) a body corporate incorporated elsewhere which has a place of business in Hong Kong or is represented in Hong Kong by an agent;

- (c) any other person or a partnership having a place of business in Hong Kong.”.

(3) Section 78—

**Repeal subsections (4) and (5).**

**84. Parts XI to XIV added**

Before First Schedule—

**Add**

**“Part XI**

**Disciplinary Actions and Conduct Requirements  
for Licensed Insurance Intermediaries and  
Certain Officers**

**Division 1—Preliminary**

**79. Interpretation**

- (1) In this Part—

***misconduct*** (不當行為) means—

- (a) a contravention of a provision of this Ordinance;
- (b) a contravention of a term or condition of a licence granted under this Ordinance;
- (c) a contravention of any other condition imposed under a provision of this Ordinance; or
- (d) an act or omission relating to the carrying on of any regulated activity which, in the Authority’s opinion, is or is likely to be prejudicial to the interests of policy holders or potential policy holders or the public interest,

and ***guilty of misconduct*** (犯不當行為) is to be construed accordingly;

***regulated person*** (受規管人士) means—

- (a) a licensed insurance intermediary;
- (b) a responsible officer of a licensed insurance agency;
- (c) a responsible officer of a licensed insurance broker company;
- (d) a person concerned in the management of the regulated activities carried on by a licensed insurance agency; or
- (e) a person concerned in the management of the regulated activities carried on by a licensed insurance broker company.

- (2) For the purposes of paragraph (d) of the definition of ***misconduct*** in subsection (1), the Authority must not form an opinion that an act or omission is or is likely to be prejudicial to the interests of policy holders or potential policy holders or the public interest, unless it has had regard to those provisions set out in any code of conduct published under section 93 or any code or guideline published under section 131, that are in force at the time of the occurrence of, and applicable in relation to, the act or omission.

- (3) If—

- (a) a licensed insurance agency is, or was at any time, guilty of misconduct; or
- (b) a former licensed insurance agency was at any time guilty of misconduct,

as a result of a conduct occurring with the consent or connivance of, or attributable to neglect on the part of, a

person specified in subsection (4), the conduct is also to be regarded as misconduct on the part of the person, and **guilty of misconduct** (犯不當行為) is to be construed accordingly.

- (4) The person specified for subsection (3) is—
- (a) a responsible officer or former responsible officer of the agency; or
  - (b) a person concerned in the management of the regulated activities carried on by the agency.
- (5) If—
- (a) a licensed insurance broker company is, or was at any time, guilty of misconduct; or
  - (b) a former licensed insurance broker company was at any time guilty of misconduct,

as a result of a conduct occurring with the consent or connivance of, or attributable to neglect on the part of, a person specified in subsection (6), the conduct is also to be regarded as misconduct on the part of the person, and **guilty of misconduct** (犯不當行為) is to be construed accordingly.

- (6) The person specified for subsection (5) is—
- (a) a responsible officer or former responsible officer of the company; or
  - (b) a person concerned in the management of the regulated activities carried on by the company.

## Division 2—Powers of Authority

### 80. Disciplinary action in respect of regulated persons

- (1) The Authority may exercise any of the powers specified in subsection (4) in respect of a person if—

- (a) the person is, or was at any time, guilty of misconduct when the person is a regulated person;
  - (b) the person was at any time guilty of misconduct when the person was a regulated person; or
  - (c) the Authority is of the opinion that—
    - (i) at the time when the person is a regulated person, the person is not a fit and proper person; or
    - (ii) at a time when the person was a regulated person, the person was not a fit and proper person.
- (2) The Authority may also exercise any of the powers specified in subsection (4)(a) in respect of a person who is a licensed insurance intermediary if—
- (a) for a person who is an individual—
    - (i) the person enters into a voluntary arrangement with creditors, or has a bankruptcy order made against the individual, under the Bankruptcy Ordinance (Cap. 6);
    - (ii) the person is convicted of an offence in Hong Kong or elsewhere, which in the opinion of the Authority impugns the fitness and properness of the person to remain licensed; or
    - (iii) the person has been found by a court to be mentally incapacitated, or is detained in a mental hospital, under the Mental Health Ordinance (Cap. 136), which in the opinion of the Authority impugns the fitness and properness of the person to remain licensed;
  - (b) for a person that is a partnership—



- (i) any of the partners of the person enters into a voluntary arrangement with creditors, or has a bankruptcy order made against the partner, under the Bankruptcy Ordinance (Cap. 6);
  - (ii) any of the partners of the person is convicted of an offence in Hong Kong or elsewhere, which in the opinion of the Authority impugns the fitness and properness of the person to remain licensed; or
  - (iii) any of the partners of the person has been found by a court to be mentally incapacitated, or is detained in a mental hospital, under the Mental Health Ordinance (Cap. 136), which in the opinion of the Authority impugns the fitness and properness of the person to remain licensed;
- (c) for a person that is a company—
- (i) a receiver or manager of the property or business of the person is appointed;
  - (ii) the person enters into a scheme of arrangement with its creditors;
  - (iii) the person goes into liquidation;
  - (iv) the person is convicted of an offence in Hong Kong or elsewhere, which in the opinion of the Authority impugns the fitness and properness of the person to remain licensed;
  - (v) any of the directors of the person is convicted of an offence in Hong Kong or elsewhere, which in the opinion of the Authority impugns the fitness and properness of the person to remain licensed; or

- (vi) any of the directors of the person has been found by a court to be mentally incapacitated, or is detained in a mental hospital, under the Mental Health Ordinance (Cap. 136), which in the opinion of the Authority impugns the fitness and properness of the person to remain licensed; or
  - (d) for a person that is a sole proprietorship, partnership or company—any of the controllers of the person is convicted of an offence in Hong Kong or elsewhere, which in the opinion of the Authority impugns the fitness and properness of the person to remain licensed.
- (3) The Authority may also exercise any of the powers specified in subsection (4)(b) in respect of a person who is a responsible officer of a licensed insurance agency or a licensed insurance broker company if—
- (a) the person is convicted of an offence in Hong Kong or elsewhere; and
  - (b) in the opinion of the Authority, the conviction impugns the fitness and properness of the person to remain as a responsible officer.
- (4) The following powers are specified for subsections (1), (2) and (3)—
- (a) for a person who is a licensed insurance intermediary—
    - (i) to revoke the licence of the person;
    - (ii) to suspend the licence of the person, for a period or until the occurrence of an event that the Authority specifies;
  - (b) for a person who is a responsible officer—

- (i) to revoke the approval of the person as a responsible officer;
  - (ii) to suspend the approval of the person as a responsible officer for a period or until the occurrence of an event that the Authority specifies;
- (c) for a person who is or was a regulated person—
  - (i) to prohibit the person from applying to be licensed for a period or until the occurrence of an event that the Authority specifies;
  - (ii) to prohibit the person from being appointed as a responsible officer for a period or until the occurrence of an event that the Authority specifies;
- (d) for a person who is or was a regulated person—to reprimand the person publicly or privately;
- (e) for a person who is or was a regulated person—to order the person to pay a pecuniary penalty not exceeding the amount which is the greater of—
  - (i) \$10,000,000; or
  - (ii) 3 times the amount of the profit gained or loss avoided by the person as a result of the misconduct, or of the other conduct of the person which leads the Authority to form the opinion referred to in subsection (1)(c).
- (5) If the Authority has exercised its power under subsection (1), (2) or (3), it may disclose to the public details of its decision, the reasons for which the decision was made, and any material facts relating to the case.
- (6) The Authority, in forming an opinion for subsection (1)(c), may, among other matters (including those

specified in section 64ZZA), take into account the present or past conduct of the person.

**81. Procedural requirements in respect of exercise of powers under section 80**

- (1) The Authority must not exercise a power under section 80 without first giving the person in respect of whom the power is to be exercised a reasonable opportunity of being heard.
- (2) If the Authority decides to exercise a power under section 80 in respect of a person, the Authority must inform the person of its decision to do so by notice in writing.
- (3) The notice must include—
  - (a) a statement of the reasons for the decision;
  - (b) the time when the decision is to take effect;
  - (c) in so far as applicable, the duration and terms of the revocation, suspension or prohibition to be imposed under the decision;
  - (d) in so far as applicable, the terms in which the person is to be reprimanded under the decision; and
  - (e) in so far as applicable, the amount of the pecuniary penalty to be imposed under the decision and the period within which it is required to be paid.
- (4) The Authority must consult the Monetary Authority before exercising a power under section 80 in respect of—
  - (a) an authorized institution;
  - (b) a person who—
    - (i) is, or was, a regulated person; and

- (ii) is, or was, employed by an authorized institution; or
- (c) a person who—
  - (i) is, or was, a regulated person; and
  - (ii) is, or was, appointed as an agent by an authorized institution,
 in relation to any regulated activity carried on by the institution.

**82. Guidelines for exercise of power to impose pecuniary penalty under section 80**

- (1) The Authority must not exercise a power under section 80 to impose a pecuniary penalty unless—
  - (a) it has published, in the Gazette and in any other manner it considers appropriate, guidelines to indicate the way in which it proposes to exercise that power; and
  - (b) in exercising that power, it has had regard to the guidelines so published.
- (2) The guidelines are not subsidiary legislation.
- (3) The Authority must consult the Monetary Authority before publishing any guideline under subsection (1).

**83. General provisions relating to exercise of disciplinary powers**

- (1) At any time when the Authority is contemplating exercising a power under section 80, it may, if it considers it appropriate to do so in the interests of policy holders or potential policy holders or the public interest, by agreement with the person concerned—

- (a) exercise a power that the Authority may exercise in respect of the person under this Part; and
- (b) take an additional action that the Authority considers appropriate in the circumstances of the case.
- (2) If the Authority exercises a power or takes an additional action in respect of a person under subsection (1), it must comply with section 81 as if that section applied to the power or action, unless the person agrees otherwise.
- (3) In reaching a decision under this Part, the Authority may have regard to any information or material in its possession which is relevant to the decision, regardless of how the information or material has come into its possession.
- (4) The Authority must consult the Monetary Authority before exercising a power under subsection (1) in respect of—
  - (a) an authorized institution;
  - (b) a person who—
    - (i) is, or was, a regulated person; and
    - (ii) is, or was, employed by an authorized institution; or
  - (c) a person who—
    - (i) is, or was, a regulated person; and
    - (ii) is, or was, appointed as an agent by an authorized institution,
 in relation to any regulated activity carried on by the institution.

**84. Order for payment of pecuniary penalty**

- (1) A person ordered to pay a pecuniary penalty under section 80 must pay the penalty to the Authority within 30 days, or a longer period that the Authority specifies by notice under section 81(3)(e), after the order has taken effect.
- (2) The Court of First Instance may, on an application of the Authority, register an order to pay a pecuniary penalty made under section 80 in the Court.
- (3) On registration, the order is to be regarded as an order of the Court of First Instance made within the civil jurisdiction of the Court for the payment of money.
- (4) For making an application under subsection (2), the Authority must produce to the Registrar of the High Court a notice in writing requesting that the order be registered, together with the original and a copy of the order.
- (5) A pecuniary penalty paid to or recovered by the Authority under an order made under section 80 must be paid by the Authority into the general revenue.

### **Division 3—Consequences of Revocation or Suspension under Division 2**

**85. Effect of suspension under section 80**

- (1) If a licence or approval of a person is suspended under section 80, the person must, during the suspension period—
  - (a) continue to be regarded for the purposes of this Ordinance, but not sections 64G, 64ZE, 64ZF, 64ZN and 64ZO, to be licensed; and

- (b) without limiting paragraph (a), continue to be required to comply with the provisions of this Ordinance relating to a licensed insurance intermediary or responsible officer as would apply to the person were the licence or approval not so suspended.
- (2) Without limiting the powers that can be exercised by the Authority under section 80, the Authority may—
  - (a) revoke the licence of a person under this Part even though the licence is suspended under section 80; or
  - (b) revoke the approval of a person under this Part even though the approval is suspended under section 80.

**86. Revocation or suspension of licence does not avoid or affect agreement, etc.**

A revocation or suspension of the licence of a person under section 80 does not—

- (a) avoid or affect an agreement, transaction or arrangement entered into or arranged by the person, regardless of whether the agreement, transaction or arrangement was entered into or arranged before or after the revocation or suspension; or
- (b) affect a right, obligation or liability arising under the agreement, transaction or arrangement.

**87. Requirement to transfer records on revocation or suspension of licence**

- (1) If the licence of a person is revoked or suspended under section 80, the Authority may, by notice in writing, require the person to transfer to a client a copy of the

records relating to the client's assets or affairs, held at any time for the client as specified in the notice.

- (2) A person who, without reasonable excuse, fails to comply with a requirement imposed on the person under subsection (1) commits an offence and is liable to a fine of \$200,000 and to imprisonment for 2 years.

**88. Permission to carry on business operations on revocation or suspension of licence**

- (1) If the licence of a person is revoked under section 80, the Authority may, by notice in writing, permit the person, subject to the conditions specified in the notice, to carry on business operations for closing down the business connected with the revocation.
- (2) If the licence of a person is suspended under section 80, the Authority may, by notice in writing, permit the person, subject to the conditions specified in the notice, to carry on only essential business operations for the protection of the interests of the policy holders concerned during the period of suspension.
- (3) If the Authority has granted a permission to a person under subsection (1) or (2), the person must not, because of its carrying on business operations in compliance with the permission, be regarded as having contravened section 64G or 118.
- (4) A permission under subsection (1) or (2), and the imposition of conditions under any of those subsections, take effect at the time of the service of the notice or at the time specified in the notice, whichever is the later.

**Division 4—Conduct Requirements, etc.**

**89. Conduct requirements for licensed insurance intermediaries**

When carrying on a regulated activity, a licensed insurance intermediary—

- (a) must act honestly, fairly, in the best interests of the policy holder concerned or the potential policy holder concerned, and with integrity;
- (b) must exercise a level of care, skill and diligence that may reasonably be expected of a prudent person who is carrying on the regulated activity;
- (c) may advise only on matters for which the intermediary is competent to advise;
- (d) must have regard to the particular circumstances of the policy holder or the potential policy holder that are necessary for ensuring that the regulated activity is appropriate to the policy holder or the potential policy holder;
- (e) must make the disclosure of information to the policy holder or the potential policy holder that is necessary for the policy holder or the potential policy holder to be sufficiently informed for the purpose of making any material decision;
- (f) must use its best endeavours to avoid a conflict between the interests of the intermediary and the interests of the policy holder or the potential policy holder;
- (g) must disclose any conflict mentioned in paragraph (f) to the policy holder or the potential policy holder;

- (h) must ensure that the policy holder's assets are promptly and properly accounted for; and
- (i) must comply with other requirements that are prescribed by rules made under sections 92 and 127.

**90. Conduct requirements for licensed insurance agencies and their responsible officers**

- (1) A licensed insurance agency—
  - (a) must establish and maintain proper controls and procedures for securing compliance with the conduct requirements set out in section 89 by the agency and the licensed technical representatives (agent) appointed by the agency;
  - (b) must use its best endeavours to secure observance with the controls and procedures established under paragraph (a) by the licensed technical representatives (agent) appointed by the agency;
  - (c) must ensure that its responsible officer has sufficient authority within the agency for carrying out the responsibilities set out in subsection (2); and
  - (d) must provide its responsible officer with sufficient resources and support for carrying out the responsibilities set out in subsection (2).
- (2) A responsible officer of a licensed insurance agency must use the officer's best endeavours to ensure that the agency—
  - (a) has established and maintains proper controls and procedures for securing compliance with the conduct requirements set out in section 89 by the

agency and the licensed technical representatives (agent) appointed by the agency; and

- (b) uses its best endeavours to secure observance with the controls and procedures established under paragraph (a) by the licensed technical representatives (agent) appointed by the agency.

**91. Conduct requirements for licensed insurance broker companies and their responsible officers**

- (1) A licensed insurance broker company—
  - (a) must establish and maintain proper controls and procedures for securing compliance with the conduct requirements set out in section 89 by the company and the licensed technical representatives (broker) appointed by the company;
  - (b) must use its best endeavours to secure observance with the controls and procedures established under paragraph (a) by the licensed technical representatives (broker) appointed by the company;
  - (c) must ensure that its responsible officer has sufficient authority within the company for carrying out the responsibilities set out in subsection (2); and
  - (d) must provide its responsible officer with sufficient resources and support for carrying out the responsibilities set out in subsection (2).
- (2) A responsible officer of a licensed insurance broker company must use the officer's best endeavours to ensure that the company—
  - (a) has established and maintains proper controls and procedures for securing compliance with the conduct requirements set out in section 89 by the

company and the licensed technical representative (broker) appointed by the company; and

- (b) uses its best endeavours to secure observance with the controls and procedures established under paragraph (a) by the licensed technical representatives (broker) appointed by the company.

**92. Rules on conduct requirements for licensed insurance intermediaries**

- (1) The Authority may make rules requiring licensed insurance intermediaries to comply with the practices and standards, relating to the conduct of the intermediaries in carrying on regulated activities, that are specified in the rules.
- (2) Without limiting subsection (1) and without affecting section 129, the Authority may in the rules—
  - (a) prohibit the use of any misleading or deceptive advertisement by a licensed insurance intermediary and impose conditions on the use of advertisements;
  - (b) require a licensed insurance intermediary to provide specified information to its client on entering into a policy or on the request of the client;
  - (c) require a licensed insurance intermediary to take specified steps to ascertain, in relation to its client, specified matters relating to the identity, financial situation and financial and insurance needs of the client that are relevant to the services to be provided by the intermediary;

- (d) require a licensed insurance intermediary to take specified steps before providing information or advice to its client;
- (e) require a licensed insurance intermediary to take specified steps to ensure that disclosure is made to its client of the coverage, terms and conditions, and risks in relation to the policy recommended to the client;
- (f) require a licensed insurance intermediary to take specified steps to ensure that disclosure is made to its client of any commission or advantage that the intermediary receives or is to receive in relation to the policy recommended to the client;
- (g) require a licensed insurance intermediary to take specified steps to comply with the conduct requirements under sections 89, 90 and 91;
- (h) require a licensed insurance intermediary not to effect a transaction in specified circumstances;
- (i) prohibit the use by a licensed insurance intermediary of information relating to the affairs of its clients except in specified circumstances and under specified conditions;
- (j) require a licensed insurance intermediary to take specified steps in cases of conflict of interest between the intermediary and its client;
- (k) prohibit the receipt by a licensed insurance intermediary of any property or services from another licensed insurance intermediary in consideration of directing business to that other licensed insurance intermediary, except in specified circumstances and under specified conditions; and

- (l) provide for any other matter in relation to the practices and standards relating to conduct in carrying on regulated activities by a licensed insurance intermediary.

### 93. Codes of conduct for licensed insurance intermediaries

- (1) The Authority may publish, in the Gazette and in any other manner it considers appropriate, codes of conduct for giving guidance relating to the practices and standards with which licensed insurance intermediaries are ordinarily expected to comply in carrying on regulated activities.
- (2) Subsection (1) applies without limiting the powers of the Authority to make rules under section 92.
- (3) A code of conduct may refer to obligations to observe—
  - (a) any other codes or requirements issued or imposed otherwise than by the Authority;
  - (b) continuing obligations, including an obligation to provide or undergo continuous training; and
  - (c) practices and standards concerning any of the matters described in section 92(2).
- (4) The Authority may from time to time amend the whole or any part of any code of conduct published.
- (5) A failure on the part of a licensed insurance intermediary to comply with a code of conduct does not by itself render the intermediary liable to any judicial or other proceedings.
- (6) However, the failure may be taken into account in considering, for a provision of this Ordinance, whether the intermediary is a fit and proper person to remain licensed.

- (7) In any proceedings under this Ordinance before a court—
  - (a) a code of conduct is admissible in evidence; and
  - (b) if a provision in the code appears to the court to be relevant to a question arising in the proceedings, the court must, in determining the question, take into account any compliance or non-compliance of the provision.
- (8) A code of conduct published under this section—
  - (a) may be of general or special application and may be made so as to apply only in specified circumstances; and
  - (b) may make different provisions for different circumstances and provide for different cases or classes of cases.
- (9) A code of conduct published under this section is not subsidiary legislation.

## Part XII

### Insurance Appeals Tribunal

#### 94. Interpretation

In this Part—

*affected person* (當事人)—

- (a) for a specified decision set out in Part 1 of Schedule 9—means—
  - (i) a person who is aggrieved by the decision; or



(ii) a person in respect of whom the decision is made; or

(b) for a specified decision set out in Part 2 of Schedule 9—means a person in respect of whom the decision is made;

**review** (覆核) means a review of a specified decision by the Tribunal under section 99;

**specified decision** (指明決定) means a decision specified in column 2 of Part 1 or 2 of Schedule 9 that is made under, or referred to in, the provision of this Ordinance specified in column 3 of that Schedule opposite that decision.

#### 95. Establishment of Tribunal

- (1) A tribunal is established with the name of “Insurance Appeals Tribunal” in English and “保險事務上訴審裁處” in Chinese.
- (2) The Tribunal has jurisdiction to, in accordance with this Part and Schedule 10—
  - (a) review specified decisions; and
  - (b) hear and determine a question or issue arising out of or in connection with a review.
- (3) If the Chief Executive considers it appropriate to do so, the Chief Executive may establish additional tribunals for any reviews.
- (4) The provisions of this Ordinance apply, with necessary modifications, to the additional tribunals as they apply to the Tribunal.

#### 96. Composition of Tribunal

- (1) Except as otherwise provided in Schedule 10, the Tribunal—
  - (a) consists of a chairperson and 2 other members; and
  - (b) is to be presided over by the chairperson who is to sit with the 2 other members.
- (2) A member of the Tribunal (including the chairperson) may be paid, as a fee for his or her service, the amount that the Financial Secretary considers appropriate.
- (3) The amount payable under this section is a charge on the general revenue.

#### 97. Schedule 10 has effect in relation to Tribunal

Schedule 10 has effect—

- (a) in relation to the appointment of members of the Tribunal;
- (b) in relation to the proceedings and sittings of the Tribunal; and
- (c) in relation to the procedural and other matters concerning the Tribunal.

#### 98. Applications for review of specified decisions

- (1) An affected person may, by notice in writing to the Tribunal, apply to the Tribunal for a review of a specified decision within the period ending 21 days after the notice informing the person of the decision has been served.
- (2) An application for review—
  - (a) must be in writing; and
  - (b) must state the grounds for the application.

- (3) The Tribunal must, as soon as practicable after receiving an application for review, send a copy of the application to the Authority.
- (4) On an application by an affected person, the Tribunal may by order extend the time within which the application for review may be made under subsection (1).
- (5) The Tribunal may only grant an extension—
  - (a) if it is satisfied that there is a good cause for granting the extension; and
  - (b) after the affected person and the Authority have been given a reasonable opportunity to be heard.
- (6) On making the order, the time within which the application for review may be made is extended accordingly.

**99. Determination of review by Tribunal**

- (1) The Tribunal may determine a review of a specified decision by—
  - (a) confirming, varying or setting aside the decision; or
  - (b) remitting the matter to the Authority with directions it considers appropriate.
- (2) If a specified decision is set aside, the Tribunal may substitute for the decision another decision it considers appropriate.
- (3) If the Tribunal varies, or substitutes another decision for, a specified decision, the decision as varied or the other decision substituting for the specified decision—
  - (a) must be a decision that the Authority had power to make in respect of the review in question;

- (b) may be more or less onerous than the specified decision; and
- (c) may be made under the same provision as that under which the specified decision has been made or any other provision of this Ordinance.
- (4) In reviewing a specified decision, the Tribunal must give the parties to the review a reasonable opportunity to be heard.
- (5) Subject to section 102(3), the standard of proof required to determine any question or issue before the Tribunal is to be the standard of proof applicable to civil proceedings in a court of law.

**100. Powers of Tribunal**

- (1) Subject to Schedule 10, the Tribunal may, for the purpose of a review, on its own initiative or on the application of a party to the review—
  - (a) receive and consider any material by way of oral evidence, written statements or documents, whether or not the material would be admissible in a court of law;
  - (b) determine the manner in which any material mentioned in paragraph (a) is received;
  - (c) by notice in writing signed by the chairperson of the Tribunal, require a person—
    - (i) to attend before it at any sitting and to give evidence; and
    - (ii) to produce any article, record or document in the person's possession or control relating to the subject matter of the review;
  - (d) administer oaths;

- (e) examine or cause to be examined on oath or otherwise a person attending before it and require the person to answer truthfully any question which the Tribunal considers appropriate for the purpose of the review;
  - (f) order a witness to provide evidence for the purpose of the review by affidavit;
  - (g) order a person not to publish or otherwise disclose any material the Tribunal receives;
  - (h) prohibit the publication or disclosure of any material the Tribunal receives at any sitting, or any part of a sitting, that is held in private;
  - (i) stay any of the proceedings in the review on any grounds and on any terms and conditions that it considers appropriate having regard to the interests of justice;
  - (j) determine the procedure to be followed in the review; and
  - (k) exercise other powers or make other orders that may be necessary for or ancillary to the conduct of the review or the carrying out of its functions.
- (2) A person commits an offence if the person, without reasonable excuse—
- (a) fails to comply with an order, notice, prohibition or requirement of the Tribunal made, given or imposed under subsection (1);
  - (b) disrupts any sitting of the Tribunal or otherwise misbehaves during any sitting of the Tribunal;
  - (c) having been required by the Tribunal under subsection (1) to attend before the Tribunal, leaves

- the place where the person's attendance is so required without the permission of the Tribunal;
  - (d) hinders or deters any person from attending before the Tribunal, giving evidence or producing any article, record or document, for the purpose of a review;
  - (e) threatens, insults or causes any loss to be suffered by any person who has attended before the Tribunal, on account of that attendance; or
  - (f) threatens, insults or causes any loss to be suffered by the chairperson, or any other member, of the Tribunal at any time on account of the performance of the chairperson's or member's functions.
- (3) A person who commits an offence under subsection (2) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) A person is not excused from complying with an order, notice, prohibition or requirement of the Tribunal made, given or imposed under subsection (1) only on the ground that to do so might tend to incriminate the person.

#### **101. Use of incriminating evidence given for the purpose of review**

- (1) This section applies to any evidence, answer or information given or provided by a person in accordance with a requirement or order of the Tribunal under section 100(1)(c), (e), (f) or (k).

- (2) Despite anything in this Ordinance and subject to subsection (3), neither the evidence, answer or information given or provided by the person nor the requirement or order of the Tribunal is admissible in evidence against the person in criminal proceedings in a court of law.
- (3) Subsection (2) does not apply to criminal proceedings in which the person is charged with an offence under section 100(2)(a), or under Part V of the Crimes Ordinance (Cap. 200), or with perjury, in respect of the evidence, answer or information.

**102. Contempt dealt with by Tribunal**

- (1) The Tribunal has the same powers as the Court of First Instance to punish for contempt.
- (2) Without limiting subsection (1), the Tribunal has the same powers as the Court of First Instance to punish for contempt, as if it were contempt of court, a person who, without reasonable excuse, engages in a conduct falling within section 100(2)(a), (b), (c), (d), (e) or (f).
- (3) The Tribunal must, in exercising its powers to punish for contempt, adopt the same standard of proof as the Court of First Instance in the exercise of the same powers to punish for contempt.
- (4) Despite anything in this Ordinance—
  - (a) no power may be exercised under this section to determine whether to punish a person for contempt in respect of any conduct if—
    - (i) criminal proceedings have previously been instituted against the person under section 100(2) in respect of the same conduct; and

- (ii) those criminal proceedings remain pending or because of the previous institution of those criminal proceedings, no criminal proceedings may again be lawfully instituted against the person under that section in respect of the same conduct; and
- (b) no criminal proceedings may be instituted against a person under section 100(2) in respect of any conduct if—
  - (i) any power has previously been exercised under this section to determine whether to punish the person for contempt in respect of the same conduct; and
  - (ii) proceedings arising from the exercise of that power remain pending or because of the previous exercise of that power, no power may again be lawfully exercised under this section to determine whether to punish the person for contempt in respect of the same conduct.

**103. Privileged information**

This Part and Schedule 10 do not require an authorized institution, acting as the banker or financial advisor of the applicant for a review, to disclose information in relation to the affairs of any of its customers other than that applicant.

**104. Costs**

- (1) The Tribunal may, in relation to a review, by order award to—

- (a) a person whose attendance, whether or not as a witness, has been necessary or required for the purpose of the review; or
- (b) a party to the review,  
a sum that it considers appropriate in respect of the costs reasonably incurred by the person or party in relation to the review and the application for the review.
- (2) The costs awarded must be paid by, and are recoverable as a civil debt from—
  - (a) if they are awarded to a person under subsection (1)(a)—a party to the review that the Tribunal considers appropriate; or
  - (b) if they are awarded to a party to the review under subsection (1)(b)—the other party to the review.
- (3) Subject to a rule made under section 115, Order 62 of the Rules of the High Court (Cap. 4 sub. leg. A) applies to the award of costs, and to the taxation of any costs awarded, by the Tribunal under subsection (1).

**105. Notification of Tribunal determinations**

- (1) The Tribunal must, as soon as practicable after completing a review, notify the parties to the review—
  - (a) its determination and the reasons for the determination; and
  - (b) any order made under section 104 in relation to the review and the reasons for the order.
- (2) If a sitting of the Tribunal, or a part of it, is held in private, the Tribunal may by order prohibit the publication or disclosure of—

- (a) its determination, or the reasons for the determination, referred to in subsection (1)(a), or a part of the determination or reasons; or
- (b) an order, or the reasons for an order, referred to in subsection (1)(b), or a part of the order or any part of the reasons for the order.
- (3) A person commits an offence if the person, without reasonable excuse, fails to comply with an order of the Tribunal made under subsection (2).
- (4) A person who commits an offence under subsection (3) is liable—
  - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

**106. Form and proof of orders of Tribunal**

- (1) An order made by the Tribunal must be recorded in writing and be signed by the chairperson of the Tribunal.
- (2) A document purporting to be an order of the Tribunal so signed is, in the absence of evidence to the contrary, presumed to be an order of the Tribunal duly made and signed—
  - (a) without proof of its making;
  - (b) without proof of signature; or
  - (c) without proof that the person signing the order was in fact the chairperson of the Tribunal.

**107. Orders of Tribunal may be registered in Court of First Instance**

- (1) After receiving a notice in writing given by the Tribunal in the manner prescribed by rules made under section 115, the Court of First Instance may register an order of the Tribunal in that Court.
- (2) An order so registered is to be regarded for all purposes as an order of the Court of First Instance made within its jurisdiction.

**108. Application for stay of execution of specified decisions**

- (1) Subject to subsections (2) and (4), an application for review does not by itself operate as a stay of execution of the specified decision to which the application relates.
- (2) A person who applies for a review or an application referred to in section 98(4) may, at any time before the review or the application is determined by the Tribunal, apply to the Tribunal for a stay of execution of the specified decision to which the application relates.
- (3) The Tribunal must, as soon as practicable after receiving an application under subsection (2), conduct a hearing to determine the application.
- (4) The Tribunal may by order grant the stay subject to a condition as to costs, payment of money into the Tribunal or other matters that the Tribunal considers appropriate.

**109. Applications for stay of execution of determinations of Tribunal**

- (1) A party to a review may, at any time after the determination of the review by the Tribunal, apply to the Tribunal for a stay of execution of the determination.

- (2) On an application under subsection (1), the Tribunal may by order grant the stay subject to a condition as to costs, payment of money into the Tribunal or other matters that the Tribunal considers appropriate.

**110. Appeal to Court of Appeal**

- (1) Subject to subsection (2), if a party to a review is dissatisfied with the determination of the review, the party may appeal to the Court of Appeal against the determination on—
  - (a) a question of law;
  - (b) a question of fact; or
  - (c) a question of mixed law and fact.
- (2) No appeal may be made under subsection (1) unless leave to appeal has been granted by the Court of Appeal.
- (3) The leave may be granted—
  - (a) in respect of a particular issue arising out of the determination; and
  - (b) subject to a condition that the Court of Appeal considers necessary in order to secure the just, expeditious and economical disposal of the appeal.
- (4) The leave may only be granted if the Court of Appeal is satisfied that—
  - (a) the appeal has a reasonable prospect of success; or
  - (b) there is some other reason in the interests of justice why the appeal should be heard.

**111. Powers of Court of Appeal**

- (1) The Court of Appeal may, in relation to an appeal against a determination of the Tribunal—

- (a) allow the appeal;
  - (b) dismiss the appeal;
  - (c) vary or set aside the determination and, if the determination is set aside, substitute for the determination another determination that it considers appropriate; or
  - (d) remit the matter to the Tribunal or to the Authority with any directions it considers appropriate.
- (2) If the Court of Appeal varies, or substitutes another determination for, a determination under subsection (1)(c), the determination as varied or the other determination substituting for the determination—
- (a) must be a determination that the Tribunal had power to make in respect of the review in question;
  - (b) may be more or less onerous than the determination varied or substituted; and
  - (c) may be made under the same provision as that under which the determination varied or substituted has been made or any other provision of this Ordinance.
- (3) In an appeal under this section, the Court of Appeal may make any order for payment of costs it considers appropriate.

#### **112. No stay of execution of Tribunal's determination on appeal**

- (1) Without prejudice to section 109, the lodging of an appeal under section 110 does not by itself operate as a stay of execution of the determination of the Tribunal appealed against.

- (2) If an appeal is lodged under section 110, the Court of Appeal may, on an application made to it by a party to the review, order a stay of execution of the determination of the Tribunal appealed against.
- (3) The Court of Appeal may, when making an order under subsection (2), impose a condition that the Court of Appeal considers appropriate, including conditions as to costs and payment of money into the Tribunal.

#### **113. No other right of appeal**

Subject to section 50 of the High Court Ordinance (Cap. 4) and section 110, the determination of the Tribunal is final and is not subject to appeal.

#### **114. Time when specified decisions take effect**

- (1) Except as otherwise provided in this Ordinance, a specified decision takes effect—
- (a) if, before the expiry of the period of 21 days specified in section 98, an affected person notifies the Authority in writing that the person will not apply for a review of the decision—at the time the person so notifies the Authority;
  - (b) if, within the period of 21 days specified in section 98, the person does not apply for a review of the decision—at the time the period expires; or
  - (c) if the person applies for a review of the decision within the period of 21 days specified in section 98—
    - (i) if the decision is confirmed by the Tribunal—at the time the decision is confirmed;
    - (ii) if the decision is varied, or substituted by another decision, by the Tribunal—at the time

the decision is varied or substituted, subject to the terms of the variation or substitution; or

- (iii) if the application is withdrawn—at the time the application is withdrawn.

- (2) Despite subsection (1), the Authority may, if it considers it appropriate in the public interest to do so in relation to a specified decision, specify in the notice in respect of the decision any time, other than that at which the decision is apart from this section to take effect, as the time at which the decision is to take effect.

#### **115. Power of Chief Justice to make rules**

The Chief Justice may make rules—

- (a) providing for the award of costs under section 104;
- (b) providing for matters relating to the registration of an order of the Tribunal in the Court of First Instance under section 107;
- (c) regulating the procedure for the hearing of appeals under section 110;
- (d) requiring the payment of the fees specified in the rules for a matter relating to applications for review;
- (e) providing for matters of procedure or other matters relating to applications for review, which are not provided for in this Part or in Schedule 10;
- (f) providing for the issue or service of any document (however described) for the purposes of this Part or Schedule 10; and
- (g) prescribing a matter which this Part provides is, or may be, prescribed by rules made by the Chief Justice.

## **Part XIII**

### **Miscellaneous**

#### **Division 1—Immunity**

##### **116. Immunity**

- (1) A person is not civilly liable for an act done or omitted to be done by the person in good faith in performing or purportedly performing a function under this Ordinance.
- (2) Subsection (1) does not apply to—
  - (a) an auditor appointed under section 5E or 72; and
  - (b) an auditor or actuary appointed under section 15.

#### **Division 2—Other Offences and Supplementary Provisions on Offences**

##### **Subdivision 1—Other Offences**

##### **117. Misleading statements, etc. and false information**

- (1) A person commits an offence if the person induces or attempts to induce another person to enter into, or offer to enter into, a contract of insurance—
  - (a) by a statement, promise or representation which the person knows to be false, misleading or deceptive;
  - (b) by a dishonest concealment of material facts; or



- (c) by the reckless making (dishonest or otherwise) of a statement, promise or representation which is false, misleading or deceptive.
- (2) A person commits an offence if the person—
  - (a) causes or permits to be included in a document specified in subsection (3) a statement which the person knows to be false in a material particular; or
  - (b) recklessly causes or permits to be included in a document specified in subsection (3) a statement which is false in a material particular.
- (3) The document specified for subsection (2) is—
  - (a) a notice or statement or certificate served or furnished or sent out under a provision of this Ordinance; or
  - (b) a document or copy of a document deposited or submitted under a provision of this Ordinance.
- (4) A person who commits an offence under subsection (1) or (2) is liable—
  - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

**118. Restriction on use of certain terms and representations associated with insurance business**

- (1) Except as provided for in section 121, a person must not, without the written consent of the Authority given generally or in a particular case or class of cases, use any of the following in the description or name under which the person is carrying on business in or from Hong Kong—

- (a) the word “insurance” or “assurance”, or a derivative of the word in English, or a translation of the word or derivative in any language;
- (b) the Chinese expression “保險”, or the character “保” followed immediately by the character “險”;
- (c) the letters “i”, “n”, “s”, “u”, “r”, “a”, “n”, “c” and “e” in that order;
- (d) the letters “a”, “s”, “s”, “u”, “r”, “a”, “n”, “c” and “e” in that order.
- (2) Subsection (1) does not apply to any of the following—
  - (a) an authorized insurer;
  - (b) an approved association of underwriters;
  - (c) Lloyd’s;
  - (d) a licensed insurance intermediary;
  - (e) an association that comprises mainly licensed insurance intermediaries or their employees, and that is formed for the protection or promotion of their mutual interests;
  - (f) an association of insurers or their employees that is formed for the protection or promotion of their mutual interests.
- (3) A person who is not an authorized insurer must not, without the written consent of the Authority given generally or in a particular case or class of cases, make a representation in a bill head, letter paper, notice or advertisement, or in any other manner, that the person—
  - (a) is an authorized insurer; or
  - (b) is carrying on insurance business in or from Hong Kong.

- (4) A person who contravenes subsection (1) or (3) commits an offence and is liable to a fine of \$200,000 and, in the case of an individual, also to imprisonment for 2 years.
- (5) In subsection (1)—  
*description* (描述) includes a statement that may be construed to mean that a person (however described) is a subsidiary, the holding company, or a subsidiary of the holding company, of an authorized insurer, licensed insurance agent or licensed insurance broker.

**119. Person not to disclose information obtained in the course of inspection, investigation or disciplinary action**

- (1) This section applies to—
  - (a) a person on whom a requirement under section 41B, 41C, 41D or 41E has been imposed by an inspector or investigator;
  - (b) a person on whom a requirement under section 64ZZF, 64ZZG, 64ZZH or 64ZZI has been imposed by an inspector or investigator; or
  - (c) a person who has been given a notice under section 41Q(2) or 81(2).
- (2) The person specified in subsection (1)(a) or (b) must not disclose any information obtained in the course of the requirement being imposed, or in the course of a compliance or purported compliance with the requirement, to any other person unless—
  - (a) the Authority consents to the disclosure; or
  - (b) any of the conditions specified in subsection (4) is satisfied.
- (3) The person specified in subsection (1)(c) must not disclose any information obtained from the notice, or

- from any communication with the Authority in relation to the subject matter of the notice, unless—
  - (a) the Authority consents to the disclosure; or
  - (b) any of the conditions specified in subsection (4) is satisfied.
- (4) The conditions specified for subsections (2)(b) and (3)(b) are—
  - (a) the information has already been made available to the public because of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by section 53A;
  - (b) the disclosure is for seeking advice from, or giving advice by, a counsel or a solicitor, or any other professional advisor acting or proposing to act in a professional capacity, in connection with a matter arising under this Ordinance;
  - (c) the disclosure is in connection with any judicial or other proceedings to which the person is a party; and
  - (d) the disclosure is in compliance with an order of a court, or in compliance with a law or a requirement made under a law.
- (5) The Authority may impose any conditions that it considers appropriate on a consent given by it for the purposes of subsection (2)(a) or (3)(a).
- (6) A person who contravenes subsection (2) or (3) commits an offence and is liable to a fine at level 4.
- (7) In this section—  
*inspector* (查察員)—

- (a) in relation to subsection (1)(a), has the meaning given by section 41A;
- (b) in relation to subsection (1)(b), has the meaning given by section 64F;

**investigator (調查員)—**

- (a) in relation to subsection (1)(a), has the meaning given by section 41A;
- (b) in relation to subsection (1)(b), has the meaning given by section 64F.

**120. Notification of cessation of place of business in Hong Kong**

- (1) If an authorized insurer incorporated or formed outside Hong Kong ceases to have a place of business in Hong Kong, the insurer must give not less than 3 months' prior written notice, or a shorter prior notice that the Authority allows, to the Authority of the cessation.
- (2) An authorized insurer which fails to comply with subsection (1) commits an offence and is liable—
  - (a) to a fine of \$200,000 and, in the case of an individual, also to imprisonment for 2 years; and
  - (b) in the case of a continuing offence, to a further fine of \$2,000 for each day during which the failure to give the notice continues after the expiry of the period prescribed or the shorter period allowed (as the case may be) under that subsection.

**Subdivision 2—Supplementary Provisions of Offences****121. Exceptions to sections 64G and 118**

- (1) Section 64G or 118 does not—
  - (a) prohibit a counsel from—

- (i) giving regulated advice wholly incidental to his or her practice as a counsel; or
- (ii) holding himself or herself out as so giving regulated advice;
- (b) prohibit a solicitor from—
  - (i) giving regulated advice wholly incidental to his or her practice as a solicitor in a Hong Kong firm or foreign firm within the meaning of the Legal Practitioners Ordinance (Cap. 159); or
  - (ii) holding himself or herself out as so giving regulated advice;
- (c) prohibit a certified public accountant from—
  - (i) giving regulated advice wholly incidental to his or her practice as a certified public accountant in a practice unit within the meaning of the Professional Accountants Ordinance (Cap. 50); or
  - (ii) holding himself or herself out as so giving regulated advice;
- (d) prohibit a trust company registered under Part VIII of the Trustee Ordinance (Cap. 29) from—
  - (i) giving regulated advice wholly incidental to the discharge of its duty as such a trust company; or
  - (ii) holding itself out as so giving regulated advice;
- (e) prohibit an actuary from—
  - (i) giving regulated advice wholly incidental to his or her practice as an actuary; or

- (ii) holding himself or herself out as so giving regulated advice;
  - (f) prohibit a person from giving regulated advice through—
    - (i) a newspaper, magazine, book or other publication that is made generally available to the public (excluding one that is made available on subscription only);
    - (ii) a television broadcast or radio broadcast for reception by the public, whether on subscription or otherwise; or
    - (iii) electronic communication to the public;
  - (g) prohibit a person from—
    - (i) giving regulated advice in the course of—
      - (A) carrying on the business of loss assessment on behalf of an authorized insurer, policy holder or insurance claimant; or
      - (B) carrying on the business of settling claims on behalf of an authorized insurer; or
    - (ii) holding himself or herself out as so giving regulated advice; or
  - (h) prohibit a company from—
    - (i) giving regulated advice to a specified company; or
    - (ii) holding itself out as so giving regulated advice.
- (2) Section 64G or 118 does not prohibit a person acting on behalf of an authorized insurer or a licensed insurance

intermediary from carrying on a regulated activity if carrying on that activity only involves the discharge of clerical or administrative duties for the insurer or the intermediary.

- (3) In subsection (1)—

**actuary** (精算師) means a person who holds a qualification specified in the Schedule to the Insurance Companies (Actuaries' Qualifications) Regulations (Cap. 41 sub. leg. A) or specified in a guideline published under section 131;

**specified company** (指明公司), in relation to a company, means—

- (a) a wholly owned subsidiary of the company;
  - (b) another company which holds all the issued shares of the company; or
  - (c) a wholly owned subsidiary of that other company mentioned in paragraph (b).
- (4) For the purposes of this section, a company is a wholly owned subsidiary of another company if it has only the following as members—
- (a) that other company;
  - (b) a nominee of that other company;
  - (c) a wholly owned subsidiary of that other company;
  - (d) a nominee of such a wholly owned subsidiary.
- (5) The Financial Secretary may, by notice published in the Gazette, amend subsection (1).

## 122. Offences by bodies corporate and partners

- (1) If an offence under this Ordinance is committed by a body corporate, and it is proved that the offence—

- (a) was committed with the consent or connivance of an individual specified in subsection (3); or
  - (b) was attributable to any neglect or omission on the part of an individual specified in subsection (3),  
the individual also commits the offence.
- (2) If a person who commits an offence under this Ordinance is a partner of a partnership, and it is proved that the offence—
- (a) was committed with the consent or connivance of any other partner or any person concerned in the management of the partnership; or
  - (b) was attributable to any neglect or omission on the part of any other partner, or any person concerned in the management of the partnership,
- the other partner or the person concerned in the management of the partnership also commits the offence.
- (3) The individual specified for subsection (1) is—
- (a) a controller of the body corporate;
  - (b) a director, manager, company secretary or other person concerned in the management of the body corporate (*officer*) or an individual purporting to act as the officer or as agent of the body corporate; or
  - (c) if the body corporate is managed by its members, one of the members of the body corporate.
- (4) An offence under this Ordinance committed by a body corporate is presumed to have been committed with the consent or connivance of, or to be attributable to neglect or omission on the part of, a controller, director, manager, company secretary or member of the body

- corporate or any other person if it is proved that, at the time the offence was committed, the controller, director, manager, company secretary or member or other person was concerned in the management of the body corporate.
- (5) An offence under this Ordinance committed by a partner of a partnership is presumed to have been committed with the consent or connivance of, or to be attributable to neglect or omission on the part of, any other partner in the partnership or any other person if it is proved that, at the time the offence was committed, the other partner or person was concerned in the management of the partnership.
  - (6) The presumption under subsection (4) or (5) is rebutted by a person charged with an offence under this Ordinance by virtue of that subsection if—
    - (a) there is sufficient evidence to raise an issue that the offence was committed without the person's consent or connivance and was not attributable to the person's neglect or omission; and
    - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

### 123. Time limit for proceedings for offences

Criminal proceedings for an offence under this Ordinance must be commenced within whichever of the following period expires first—

- (a) the period of 3 years beginning on the date immediately after the date on which the offence is discovered by, or comes to the notice of, the Authority;
- (b) the period of 6 years beginning on the date immediately after the offence is committed.

**124. Prosecution of offences by Authority**

- (1) The Authority may prosecute an offence under this Ordinance, or an offence of conspiracy to commit such an offence, in its own name.
- (2) However, if the Authority so prosecutes, the offence must be tried before a magistrate as an offence that is triable summarily.
- (3) For the prosecution of an offence referred to in subsection (1), an employee of the Authority who is not qualified to practise as a barrister or to act as a solicitor under the Legal Practitioners Ordinance (Cap. 159)—
  - (a) may appear and plead before a magistrate; and
  - (b) has, in relation to the prosecution, all the other rights of a person qualified to practise as a barrister or to act as a solicitor under that Ordinance.
- (4) This section does not derogate from the powers of the Secretary for Justice in respect of the prosecution of criminal offences.

**Division 3—Services****125. Service of notices, etc.**

A written notice or direction or other document (however described) permitted or required to be issued or served (however described) to or on a person, other than the Authority or the Monetary Authority, for this Ordinance is to be regarded as duly issued or served if—

- (a) for an individual, it is—
  - (i) delivered to the individual by hand;

- (ii) left at, or sent by post to, the last known business or residential address of the individual;
  - (iii) sent by fax transmission to the last known fax number of the individual; or
  - (iv) sent by electronic mail transmission to the last known electronic mail address of the individual;
- (b) for a company, it is—
- (i) delivered to any officer of the company by hand;
  - (ii) left at, or sent by post to, the registered office of the company within the meaning of the Companies Ordinance (Cap. 622);
  - (iii) sent by fax transmission to the last known fax number of the company; or
  - (iv) sent by electronic mail transmission to the last known electronic mail address of the company;
- (c) for a non-Hong Kong company, it is—
- (i) delivered by hand to, or sent by post to, the person resident in Hong Kong who is authorized to accept service of process and notices on its behalf for the purposes of Part 16 of the Companies Ordinance (Cap. 622) at the person's address delivered to the Registrar of Companies under that Ordinance;
  - (ii) sent by fax transmission to the last known fax number of the person; or
  - (iii) sent by electronic mail transmission to the last known electronic mail address of the person;

- (d) for a partnership, it is—
  - (i) delivered to any partner of the partnership by hand;
  - (ii) left at, or sent by post to, the last known principal place of business of the partnership;
  - (iii) sent by fax transmission to the last known fax number of the partnership; or
  - (iv) sent by electronic mail transmission to the last known electronic mail address of the partnership;
- (e) for Lloyd's or a member of Lloyd's, it is—
  - (i) delivered to the authorized representative of Lloyd's appointed under section 50B by hand;
  - (ii) left at, or sent by post to, the address in Hong Kong of the authorized representative;
  - (iii) sent by fax transmission to the last known fax number of the authorized representative; or
  - (iv) sent by electronic mail transmission to the last known electronic mail address of the authorized representative.

#### **Division 4—Regulations and Rules, etc.**

##### **126. Chief Executive in Council may make regulations**

- (1) The Chief Executive in Council may, after consulting the Authority, by regulations—
  - (a) provide for the payment to the Authority of, and prescribe, fees—

- (i) for an application to the Authority under this Ordinance;
    - (ii) for anything done by the Authority or a committee established under section 4C or 4D in performing a function under this Ordinance; and
    - (iii) for any other matter with regard to which provision is made by or under this Ordinance;
  - (b) prescribe fees (however described) that are required or permitted to be prescribed by regulations made under this section;
  - (c) provide for the payment of charges or penalties for late payment of any fees; and
  - (d) prescribe any matter that, by this Ordinance, is required or permitted to be prescribed by regulations made under this section.
- (2) Fees prescribed by regulations made under this section is not to be limited by reference to the amount of the administrative or other costs incurred, or likely to be incurred, by the Authority or a committee established under section 4C or 4D in providing the services or performing the functions to which the fees relate.
  - (3) Regulations made under this section—
    - (a) may provide that the amount of any fee is to be fixed by reference to a scale set out in the regulations;
    - (b) may provide for the payment of different fees by or in relation to persons or cases of different classes or descriptions;
    - (c) may provide that the payment of any fee is waived, either generally or in a particular case; and

- (d) may provide for the payment of fees annually or at other intervals.
- (4) The Authority may recover the amount of any fees payable under the regulations made under this section as a civil debt due to it.
- (5) Subsections (6) and (7) apply if—
  - (a) rules are made by the Authority under a provision in this Ordinance; and
  - (b) the provision does not specify that the rules may provide that a contravention of any specified provision of the rules constitutes an offence.
- (6) The Chief Executive in Council may make regulations to prescribe offences for contravention of the rules, punishable by a fine, imprisonment or both.
- (7) The maximum penalty that may be prescribed under subsection (6)—
  - (a) for an offence of which a person is convicted on indictment—a fine of \$500,000 and imprisonment for 2 years; and
  - (b) for an offence of which a person is summarily convicted—a fine at level 6 and imprisonment for 6 months.

**127. Authority may make rules**

- (1) The Authority may by rules—
  - (a) provide for the determination, in such different ways as may be necessary for different provisions, of the value of the assets and the amount of the liabilities of an authorized insurer for the purposes of this Ordinance;

- (b) prescribe, or provide for the determination of, any amount required or permitted to be prescribed or determined for the purposes of this Ordinance;
- (c) provide for the holding in any fund or funds maintained by an authorized insurer in respect of its long term business of part of any excess of the value of the assets of the insurer over the amount of its liabilities;
- (d) prescribe standards to be complied with by an actuary appointed under section 15(1);
- (e) provide for applications for licence, the issue of licences and incidental matters;
- (f) require licensed insurance intermediaries to carry on business in relation to a specified class of products or line of business, and in the specified manner and circumstances;
- (g) prescribe the qualifications and experience of, and training for, licensed insurance intermediaries, and provide for the obligations to be imposed in relation to the requirements, the examinations required for those purposes, and the circumstances under which exemptions may be granted;
- (h) provide for the maintenance of registers and the correction of errors in the registers maintained by the Authority;
- (i) provide for the admissibility in evidence in judicial or other proceedings of specified records, and extracts from specified records, kept by the Authority;
- (j) require documents and information required to be lodged, filed, submitted or retained for a provision



- of this Ordinance to be so lodged, filed, submitted or retained in the specified manner, whether by electronic or other means;
- (k) require documents and information lodged, filed, submitted or retained for a provision of this Ordinance to be completed, signed, executed or authenticated in the specified form and manner;
  - (l) specify whether, when and the circumstances in which records compiled in a specified form or manner, or documents or information completed, signed, executed or authenticated in a specified form or manner, are acceptable or required for a provision of this Ordinance;
  - (m) require authorized insurers and licensed insurance intermediaries to make returns at specified times to the Authority, and provide for the particulars, or the nature of particulars, to be contained in those returns, the person by whom, and the manner and circumstances in which they are to be made, and other matters related to those returns;
  - (n) require a form or a return required to be submitted under a provision of this Ordinance to be received by the Authority by or within the specified time; and
  - (o) prescribe any matter that, by this Ordinance, is required or permitted to be prescribed by rules made under this section.
- (2) In addition to the power to make rules under subsection (1), the Authority may, after consulting the Financial Secretary, make other rules that are necessary for the performance of any of its functions.

- (3) Except as otherwise provided in this Ordinance, rules made by the Authority—
- (a) may be of general or special application or may be made so as to apply only in specified circumstances;
  - (b) may make different provisions for different circumstances and provide for different cases or classes of cases;
  - (c) may authorize a matter or thing to be determined, applied or regulated by a specified person;
  - (d) may provide for the exercise of a discretion in specified cases; and
  - (e) may, for the better and more effectual carrying into effect of any provision of this Ordinance or the rules, include any savings, transitional, incidental, supplemental, evidential and consequential provisions (whether involving the provisions of a principal legislation or a subsidiary legislation).

#### **128. Relaxation of rules under section 127(1)(a)**

- (1) The Authority may, relax wholly or partly any of the rules made under section 127(1)(a) in their application to an authorized insurer for the period, and subject to the conditions, that the Authority considers appropriate, at the request in writing of that insurer, on being satisfied that—
- (a) it would not be contrary to the interests of policy holders or potential policy holders to do so; and
  - (b) it would not adversely affect the Authority's ability to carry out its supervisory functions under this Ordinance.

- (2) During any period when the relaxation is in force, the reference in section 8(4) to rules made for this purpose is, as respects that insurer, to be construed as a reference to those rules as so relaxed.
- (3) If under subsection (1) the Authority relaxes any of the rules made under section 127(1)(a) for an authorized insurer, the Authority must, as soon as practicable, publish a notice in the Gazette stating—
  - (a) the name of the insurer; and
  - (b) the fact that the rule has been relaxed under subsection (1) for that insurer.

**129. Rules may limit effect of Ordinance**

- (1) Except as otherwise provided in this Ordinance, rules made by the Authority may, subject to the terms and conditions specified in them, provide for the matters referred to in subsections (2) and (3).
- (2) The rules may provide that the provisions of this Ordinance specified in the rules have no effect, or only have effect to a specified extent, in relation to a specified person or to members in a specified class of persons—
  - (a) who is or are, or may be, required to be licensed because of the person or the members doing anything that is incidental to another business; or
  - (b) who is or are, or may be, required to be licensed because of the involvement of the person or the members in a specified class of insurance business.
- (3) If the provisions of this Ordinance specified in the rules require an application, statement, notice or other document (however described) to be lodged or filed with or submitted to the Authority, the rules may provide that those provisions are to be regarded as having been

complied with if the application, statement, notice or other document is lodged or filed with or submitted to any other specified person.

**130. Authority must publish draft rules**

- (1) If the Authority proposes to make rules under a provision of this Ordinance, it must publish a draft of the proposed rules, in the manner it considers appropriate, for inviting representations on the proposed rules by the public.
- (2) If the Authority makes rules after a draft has been published under subsection (1) in relation to the rules, it must comply with subsections (3) and (4).
- (3) The Authority must publish, in the manner that it considers appropriate, an account setting out in general terms—
  - (a) the representations made on the draft; and
  - (b) the response of the Authority to the representations.
- (4) If the Authority considers the rules made are significantly different from the draft, the Authority must publish, in the manner it considers appropriate, details of the difference.
- (5) Subsections (1) and (2) do not apply if the Authority considers, in the circumstances of the case, that—
  - (a) it is inappropriate or unnecessary that those subsections should apply; or
  - (b) the delay involved in complying with those subsections would not be—
    - (i) in the interests of policy holders or potential policy holders; or
    - (ii) in the public interest.

**131. Codes or guidelines on functions of Authority, etc.**

- (1) The Authority may publish, in the Gazette and in any other manner it considers appropriate, codes or guidelines that it considers appropriate for giving guidance—
  - (a) in relation to a matter relating to any of the functions of the Authority under this Ordinance; or
  - (b) in relation to the operation of a provision of this Ordinance.
- (2) To avoid doubt, the power of the Authority to publish codes or guidelines under this section is in addition to and not in derogation of any other power of the Authority to publish codes or guidelines under any provision of this or any other Ordinance.
- (3) The Authority may from time to time amend the whole or any part of a code or guideline published.
- (4) A failure on the part of a person to comply with the provisions set out in a code or guideline does not by itself render the person liable to any judicial or other proceedings.
- (5) However, in any proceedings under this Ordinance before a court—
  - (a) the code or guideline is admissible in evidence; and
  - (b) if a provision in the code or guideline appears to the court to be relevant to a question arising in the proceedings, the court must, in determining the question, take into account any compliance or non-compliance of the provision.
- (6) A code or guideline published under this section—

- (a) may be of general or special application or may be made so as to apply only in specified circumstances; and
- (b) may make different provisions for different circumstances and provide for different cases or classes of cases.
- (7) A code or guideline published under this section is not subsidiary legislation.

**132. Orders and regulations for levies**

- (1) A levy specified by the Chief Executive in Council by order published in the Gazette is payable to the Authority by the person so specified in the order for every contract of insurance.
- (2) For the purposes of subsection (1), the Chief Executive in Council—
  - (a) may specify the rate or amount of the levy payable for a contract of insurance—
    - (i) as a percentage of the premium payable for the contract of insurance;
    - (ii) as a fixed amount;
    - (iii) as a nil rate, nil amount or nil percentage; or
    - (iv) as to be calculated in any other manner specified in the order; and
  - (b) may specify different rates for different classes of insurance business.
- (3) The Authority may recover the amount of a levy payable under this section as a civil debt due to it.
- (4) The Chief Executive in Council may make regulations for—

- (a) the payment of levies;
- (b) the payment of charges or penalties for late payment of levies; and
- (c) the keeping, examination and audit of the accounts of authorized insurers and licensed insurance intermediaries relating to the collection and payment of levies.

**133. Reduction of levies**

- (1) If during a financial year of the Authority the requirements set out in subsection (2) are met, the Authority must consult the Financial Secretary with a view to recommending to the Chief Executive in Council that the rate or amount of a levy be reduced.
- (2) The requirements are—
  - (a) that the reserves of the Authority, after deducting depreciations and all provisions, are more than twice its estimated operating expenses for the financial year; and
  - (b) that the Authority has no outstanding debt.
- (3) The Authority may, after consulting the Financial Secretary under subsection (1), recommend to the Chief Executive in Council that the rate or amount of a levy be reduced.

**134. Procedural requirements for publishing notices under sections 13AE(14) and 121(5)**

- (1) If the Financial Secretary proposes to publish a notice under section 13AE(14) or 121(5), the Financial Secretary must publish a draft of the proposed notice, in the manner the Financial Secretary considers

- appropriate, for inviting representations on the proposed notice by the public.
- (2) If the Financial Secretary publishes a notice after a draft has been published under subsection (1), the Financial Secretary must comply with subsections (3) and (4).
- (3) The Financial Secretary must publish, in the manner that it considers appropriate, an account setting out in general terms—
  - (a) the representations made on the draft; and
  - (b) the response of the Financial Secretary to the representations.
- (4) If the Financial Secretary considers the notice published is significantly different from the draft, the Financial Secretary must publish, in the manner the Financial Secretary considers appropriate, details of the difference.
- (5) Subsections (1) and (2) do not apply if the Financial Secretary considers, in the circumstances of the case, that—
  - (a) it is inappropriate or unnecessary that those subsections should apply; or
  - (b) the delay involved in complying with those subsections would not be—
    - (i) in the interests of policy holders or potential policy holders; or
    - (ii) in the public interest.
- (6) The Financial Secretary may direct the Authority to publish on behalf of the Financial Secretary—
  - (a) the draft of the proposed notice under subsection (1);
  - (b) the account under subsection (3); or

- (c) the details of the difference under subsection (4).

### 135. Authority may specify forms

- (1) Subject to subsection (2), the Authority may specify—
  - (a) the form of any document required under this Ordinance to be in the specified form; and
  - (b) the form of such other documents required for the purposes of this Ordinance as the Authority thinks fit.
- (2) The Authority's power under subsection (1) is subject to any express requirement under this Ordinance for a form, whether specified or otherwise, to comply with that requirement, but that requirement is not to restrict the exercise of that power in respect of that form to the extent that, in the opinion of the Authority, its exercise of that power in respect of that form does not contravene that requirement.
- (3) To avoid doubt, it is declared that the Authority's power under subsection (1) may be exercised in such a way as to—
  - (a) include in the specified form of a document referred to in that subsection a statutory declaration—
    - (i) to be made by the person completing the form; and
    - (ii) as to whether the particulars contained in the form are true and correct to the best of that person's knowledge and belief;
  - (b) specify 2 or more forms of any document referred to in that subsection, whether as alternatives, or to

provide for particular circumstances or particular cases, as the Authority thinks fit.

- (4) A form specified under this section must be—
  - (a) completed in accordance with the directions and instructions that are specified in the form;
  - (b) accompanied by the documents that are specified in the form; and
  - (c) if the completed form is required to be provided to the Authority or any other person, so provided in the manner, if any, specified in the form.
- (5) In this section—  
*document* (文件) includes any application, notice, return and accounts.

### 136. Amendment of Schedules

- (1) The Chief Executive in Council may, by notice published in the Gazette, amend Schedule 9.
- (2) The Authority may, with the approval of the Financial Secretary, by notice published in the Gazette, amend any of the following—
  - (a) Schedule 1;
  - (b) Schedule 2;
  - (c) Schedule 3;
  - (d) Schedule 4;
  - (e) Schedule 5;
  - (f) Schedule 6;
  - (g) Schedule 7;
  - (h) Schedule 8.

- (3) The Legislative Council may by resolution amend Schedule 1D.

## Part XIV

### Savings and Transitional Arrangements

#### 137. Savings and transitional arrangements for Insurance Companies (Amendment) Ordinance 2014

Schedule 11 provides for the savings, transitional and supplemental arrangements that relate to the Insurance Companies (Amendment) Ordinance 2014 ( of 2014).”.

#### 85. First Schedule amended (classes of insurance business)

- (1) First Schedule, English text, heading—

##### Repeal

“FIRST SCHEDULE”

##### Substitute

“Schedule 1”.

- (2) Schedule 1—

##### Repeal

“[ss. 3, 51 & 61]”

##### Substitute

“[ss. 2, 3, 8, 10, 22, 23, 50A, 51, 64ZZC & 136 & Sch. 3]”.

#### 86. Schedules 1A to 1D added

After Schedule 1—

Add

### “Schedule 1A

[ss. 3A, 64G,  
64ZA & 78]

### Regulated Activity, Material Decision and Regulated Advice

#### Part 1

#### Regulated Activity

1. Any of the following is an act specified for the purposes of section 3A(a)—
  - (a) the act of negotiating or arranging a contract of insurance;
  - (b) the act of inviting or inducing, or attempting to invite or induce, a person to enter into a contract of insurance;
  - (c) the act of inviting or inducing, or attempting to invite or induce, a person to make a material decision;
  - (d) the act of giving regulated advice.

#### Part 2

#### Material Decision

1. Any of the following is a matter specified for the purposes of section 3A(b)—

- (a) the making of an application or proposal for a contract of insurance;
- (b) the issuance, continuance or renewal of a contract of insurance;
- (c) the cancellation, termination, surrender or assignment of a contract of insurance;
- (d) the exercise of a right under a contract of insurance;
- (e) the change in any term or condition of a contract of insurance;
- (f) the making or settlement of an insurance claim.

### Part 3

#### Regulated Advice

1. Any of the following is a matter specified for the purposes of section 3A(c)—
  - (a) the making of an application or proposal for a contract of insurance;
  - (b) the issuance, continuance or renewal of a contract of insurance;
  - (c) the cancellation, termination, surrender or assignment of a contract of insurance;
  - (d) the exercise of a right under a contract of insurance;
  - (e) the change in any term or condition of a contract of insurance;
  - (f) the making or settlement of an insurance claim.

### Schedule 1B

[s. 4AA]

#### Constitution and Proceedings of Authority, etc.

##### 1. Deputy chairperson and vacancies in office of chairperson or deputy chairperson

- (1) The Chief Executive may appoint an executive director or non-executive director of the Authority (other than the chairperson or the Chief Executive Officer of the Authority) to be the deputy chairperson of the Authority.
- (2) If the office of chairperson of the Authority is vacant or the chairperson of the Authority is unable to act as chairperson due to illness, absence from Hong Kong or any other reason, the deputy chairperson appointed under subsection (1) must act as chairperson in his or her place.
- (3) Whether or not a deputy chairperson has been appointed under subsection (1), the chairperson of the Authority may—
  - (a) designate an executive director or non-executive director of the Authority to act as chairperson of the Authority for any period during which both the chairperson and the deputy chairperson are unable to act as chairperson due to illness, absence from Hong Kong or any other reason; and
  - (b) at any time revoke the designation.
- (4) Subsection (5) applies if—
  - (a) no deputy chairperson has been appointed under subsection (1) or the office of deputy chairperson of the Authority is vacant; or

- (b) the deputy chairperson appointed under subsection (1) is unable to act as chairperson due to illness, absence from Hong Kong or any other reason, and there is no designation under subsection (3).
- (5) The Financial Secretary may designate an executive director or non-executive director of the Authority to act as chairperson of the Authority for any period during which the chairperson of the Authority is unable to act as chairperson due to illness, absence from Hong Kong or any other reason.
- (6) A designation under subsection (5) ceases to have effect when the earliest of the following events occurs—
  - (a) the designation is revoked by the Financial Secretary;
  - (b) if the designation is made in the circumstances mentioned in subsection (4)(a)—an appointment is made under subsection (1);
  - (c) if the designation is made in the circumstances mentioned in subsection (4)(b)—the deputy chairperson appointed under subsection (1) is able to act as chairperson.
- (7) A deputy chairperson, executive director or non-executive director of the Authority acting as the chairperson of the Authority under this section, is to be regarded for all purposes to be the chairperson of the Authority.
- (8) Despite subsection (7)—
  - (a) an executive director of the Authority does not cease to be regarded as such only because that director is acting as chairperson of the Authority; and

- (b) a non-executive director of the Authority does not cease to be regarded as such only because that director is acting as chairperson of the Authority.

## 2. Vacancy in office of chief executive officer

- (1) The Chief Executive—
  - (a) may designate an executive director of the Authority to act as chief executive officer of the Authority for a period during which the chief executive officer of the Authority is unable to act as chief executive officer due to illness, absence from Hong Kong or any other reason; and
  - (b) may at any time revoke the designation.
- (2) An executive director of the Authority who acts as chief executive officer of the Authority is to be regarded for all purposes to be the chief executive officer of the Authority.

## 3. Functions and office of members, etc.

- (1) The chairperson, deputy chairperson and chief executive officer of the Authority have the functions assigned to them by the Authority.
- (2) The Chief Executive is to determine the terms and conditions of the office of a member of the Authority.
- (3) A member of the Authority may at any time resign from office by notice in writing to the Chief Executive.
- (4) Unless it is otherwise provided in the terms and conditions of the appointment under subsection (2), a notice of resignation takes effect—
  - (a) on the date specified in the notice; or



(b) if no date is so specified, on the date of receipt by the Chief Executive of the notice.

(5) The Authority must pay a member of the Authority the remuneration, allowances or expenses determined by the Chief Executive.

#### 4. Removal of members of Authority

(1) If the Chief Executive is satisfied that a member of the Authority—

- (a) has become a public officer;
- (b) has become bankrupt;
- (c) is incapacitated by physical or mental illness;
- (d) is convicted in Hong Kong of an offence that is punishable by imprisonment for 12 months or more, or is convicted elsewhere than in Hong Kong of an offence that, if committed in Hong Kong, would be an offence so punishable; or
- (e) is otherwise unable or unfit to perform the functions of a member of the Authority,

the Chief Executive may declare the member's office to be vacant.

- (2) The Chief Executive must give notice of the declaration in the manner that the Chief Executive thinks fit.
- (3) Subsection (4) applies if the notice of the declaration is given otherwise than by notice published in the Gazette.
- (4) The Chief Executive must, as soon as practicable after giving notice under subsection (2), give another notice of the declaration by notice published in the Gazette.

#### 5. Disclosure of pecuniary interests by members of Authority

(1) If—

- (a) a member of the Authority has a pecuniary interest in a matter that is considered or is to be considered at a meeting of the Authority; and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as practicable after becoming aware of the relevant facts, disclose the nature of the interest at a meeting of the Authority.

(2) A disclosure by a member of the Authority at a meeting of the Authority that the member—

- (a) is an officer or member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in a matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subsection (1).

(3) Particulars of a disclosure made under this section must be recorded by the Authority in a book kept for the purpose and that book must be open at all reasonable hours to inspection by the public.

- (4) After a member of the Authority has disclosed the nature of an interest in a matter, the member must not, unless the Authority otherwise determines—
  - (a) be present during a deliberation of the Authority with respect to the matter; or
  - (b) take part in a decision of the Authority with respect to the matter.
- (5) For making a determination by the Authority under subsection (4), a member of the Authority who has a pecuniary interest in a matter to which the disclosure relates—
  - (a) must not be present during the Authority's deliberation for making the determination; and
  - (b) must not take part in the Authority's making of the determination.
- (6) A contravention of this section does not invalidate a decision of the Authority.

## 6. Meetings

- (1) Meetings of the Authority—
  - (a) must be held as often as necessary for performing its functions; and
  - (b) may be convened by the chairperson, deputy chairperson, chief executive officer, or any 2 other members, of the Authority.
- (2) At a meeting of the Authority—
  - (a) if the chairperson of the Authority is present—he or she is to be the chairperson of the meeting;
  - (b) if the chairperson of the Authority is not present but the deputy chairperson of the Authority is

- present—the deputy chairperson is to be the chairperson of the meeting; or
- (c) if neither the chairperson nor the deputy chairperson of the Authority is present—the members of the Authority present must choose one of their number to be the chairperson of the meeting.
- (3) The quorum for a meeting of the Authority is the number that is not less than one-third of the number of the executive directors of the Authority and not less than one-third of the number of the non-executive directors of the Authority.
- (4) Despite section 1(6) and (7) of this Schedule, for forming a quorum under subsection (3)—
  - (a) an executive director of the Authority who acts as chairperson of the Authority is only counted as an executive director of the Authority; and
  - (b) a non-executive director of the Authority who acts as chairperson of the Authority is only counted as a non-executive director of the Authority.
- (5) A member of the Authority who participates in a meeting of the Authority by telephone, video conferencing or other electronic means is to be regarded as being present at the meeting if—
  - (a) that member is able to hear the other members who are physically present at the meeting; and
  - (b) the members who are physically present at the meeting are able to hear that member.
- (6) Each member of the Authority present at a meeting of the Authority has 1 vote.

- (7) Every question for decision at a meeting of the Authority must be determined by a majority of the votes of its members present.
- (8) If voting is equally divided, the chairperson of the meeting has, subject to subsection (9), a casting vote.
- (9) The chairperson of a meeting of the Authority must not exercise a casting vote on a question for decision at the meeting until after the chairperson has consulted the Financial Secretary on the question.

#### 7. Written resolution

- (1) A resolution that meets the requirements set out in subsection (2) is as valid and effectual as if it had been passed at a meeting of the Authority convened and conducted in accordance with this Ordinance.
- (2) The requirements are—
  - (a) the resolution is in writing;
  - (b) the resolution is signed by all the members of the Authority who are, when the resolution is made available for signature, present in Hong Kong and capable of signing the resolution; and
  - (c) the resolution is signed by not less than one-third of the executive directors of the Authority and not less than one-third of the non-executive directors of the Authority.
- (3) For subsection (2), a resolution may be—
  - (a) in the form of one document; or
  - (b) in the form of more than one document, each of which is in the same form.
- (4) If the resolution is in the form of more than one document, the requirements under subsection (2)(b) and

(c) are to be regarded as having been satisfied if the documents together bear the signatures of the numbers of members of the Authority as specified in that subsection.

#### (5) For this section—

- (a) a document is regarded as having been signed by a member of the Authority if a telex, cable, fax or electronic transmission of the document bears the signature of the member; and
- (b) a resolution is regarded as made on the date on which the resolution is signed by the last person signing as a member of the Authority.

#### 8. Seal and regulation of administration, etc.

- (1) The Authority must have a seal, the affixing of which must be authenticated by—
  - (a) the signature of the chairperson or the deputy chairperson of the Authority; or
  - (b) the signature of another member of the Authority authorized by it to act in that behalf.
- (2) A document purporting to be a document duly executed under the seal of the Authority is to be received in evidence without further proof and is, unless the contrary is proved, to be regarded as a document so executed on being received in evidence.
- (3) The Authority must organize and regulate its administration, procedure and business in a manner that it considers will, subject to the requirements of this Ordinance, best ensure the performance of its functions.

**Schedule 1C**

[s. 4C]

**Constitution and Proceedings of Industry  
Advisory Committees**

1. An industry advisory committee consists of the following members—
  - (a) the chairperson of the Authority;
  - (b) the chief executive officer of the Authority;
  - (c) not more than 2 other executive directors of the Authority who must be appointed by the Authority;
  - (d) not less than 8 but not more than 12 other members who must be appointed by the Financial Secretary after consultation with the Authority.
2. In appointing a person as a member under section 1(d) of this Schedule, the Financial Secretary must have been satisfied that in the opinion of the Authority, the person has knowledge of, or experience in, the insurance industry, and the conduct of regulated activities and consumer affairs.
3. An industry advisory committee must meet at least once every 3 months to advise the Authority.
4. A meeting of an industry advisory committee may be convened by—
  - (a) the chairperson of the Authority;
  - (b) the chief executive officer of the Authority; or
  - (c) any 3 other members of the industry advisory committee.
5. At a meeting of an industry advisory committee—

- (a) if the chairperson of the Authority is present—he or she is to be the chairperson of the meeting; or
  - (b) if the chairperson of the Authority is not present—the members of the industry advisory committee present must choose one of their number to be the chairperson of the meeting.
6. The quorum for a meeting of an industry advisory committee is a majority of its members.
7. If a member of an industry advisory committee appointed under section 1(c) of this Schedule ceases to be an executive director of the Authority, he or she ceases to be a member of the industry advisory committee.
8. A member of an industry advisory committee appointed under section 1(c) or (d) of this Schedule may at any time resign from office by notice in writing to the following persons—
  - (a) if the member has been appointed under section 1(c)—the Authority;
  - (b) if the member has been appointed under section 1(d)—the Financial Secretary.
9. The Financial Secretary may by notice in writing remove from office a member of an industry advisory committee appointed under section 1(d) of this Schedule.

**Schedule 1D**

[ss. 4F &amp; 136]

**Non-delegable Functions of Authority**

1. The following functions of the Authority are specified for the purposes of section 4F(2)—
  - (a) to make subsidiary legislation under this Ordinance or any other Ordinance;
  - (b) to borrow money under section 4B(2)(c);
  - (c) to publish or otherwise make available, under section 4B(2)(f), materials on a matter relating to the performance by the Authority of any of its functions;
  - (d) to establish a wholly-owned subsidiary under section 4B(2)(g);
  - (e) to establish a committee under section 4D(1);
  - (f) to refer a matter to a committee under section 4D(2);
  - (g) to appoint a person to be a member or chairperson of a committee under section 4D(3);
  - (h) to withdraw a reference from a committee, or to revoke an appointment of a member or chairperson of a committee under section 4D(5);
  - (i) to delegate the powers under sections 64ZZF(6) and 64ZZH(1) to the Monetary Authority under section 4G(1), or to revoke the delegation under section 4G(3);
  - (j) to submit to the Financial Secretary corporate plans under section 5B(3);
  - (k) to prepare financial statements and reports under section 5D(2) and (3);
  - (l) to appoint auditors under section 5E(1);

- (m) to authorize a company to carry on a class or classes of insurance business under section 8;
- (n) to appoint a person, other than an employee of the Authority, to investigate any matter referred to in sections 41D(1) and 64ZZH(1);
- (o) to publish codes or guidelines under section 41R, 82, 93 or 131;
- (p) to specify the time at which a specified decision as defined by section 94 is to take effect;
- (q) to consult the Financial Secretary with a view to recommending to the Chief Executive in Council that a levy be reduced, and to recommend to the Chief Executive in Council that the levy be reduced, under section 133.”.

**87. Second Schedule amended (directors and controllers)**

- (1) Second Schedule, English text, heading—

**Repeal**

“SECOND SCHEDULE”

**Substitute**

“Schedule 2”.

- (2) Schedule 2—

**Repeal**

“[ss. 7, 14 &amp; 61]”

**Substitute**

“[ss. 7, 14 &amp; 136]”.

- (3) Schedule 2, English text, paragraph 1, heading—

**Repeal**

“Second Schedule”

**Substitute****“Schedule 2”.**

- (4) Schedule 2, paragraph 3—

**Repeal**

“an insurer”

**Substitute**

“an authorized insurer”.

- (5) Schedule 2, paragraph 3—

**Repeal**

“13A(1)”

**Substitute**

“13A(12)”.

- (6) Schedule 2, English text, Form A—

**Repeal**

“[para. 2, 2nd Sch.]”

**Substitute**

“[para. 2, Sch. 2]”.

- (7) Schedule 2, Form A, paragraph 15—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

- (8) Schedule 2, English text, Form B—

**Repeal**

“[para. 2, 2nd Sch.]”

**Substitute**

“[para. 2, Sch. 2]”.

- (9) Schedule 2, Form B, paragraph 11—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

- (10) Schedule 2, English text, Form C—

**Repeal**

“[para. 3, 2nd Sch.]”

**Substitute**

“[para. 3, Sch. 2]”.

- (11) Schedule 2, Form C—

**Repeal**

“Name of insurer”

**Substitute**

“Name of authorized insurer”.

**88. Third Schedule amended (accounts and statements)**

- (1) Third Schedule, English text, heading—

**Repeal**

“THIRD SCHEDULE”

**Substitute**

“Schedule 3”.

- (2) Schedule 3—

**Repeal**

“[ss. 17, 18, 22 &amp; 50]”

**Substitute**

“[ss. 2, 10, 15A, 15B, 17, 18, 20, 21, 22A, 25A, 25B, 50C & 136]”.

- (3) Schedule 3, English text, Part 1, paragraph 1(1), definition of *accounting class of general business* and *accounting class*—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

- (4) Schedule 3, Part 1, paragraph 4(1)(a)(ii)—

**Repeal**

“regulations made under section 59(1)(aa)”

**Substitute**

“rules made under section 127(1)(b)”.

- (5) Schedule 3, Part 1, paragraph 4(1AC)(c)(ii)—

**Repeal**

“regulations made under section 59(1)(aa)”

**Substitute**

“rules made under section 127(1)(b)”.

- (6) Schedule 3, English text, Part 1, paragraph 5(1)(b)(i)(B)—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

- (7) Schedule 3, Part 1, paragraph 5(1)(b)(ii)—

**Repeal**

“regulations made under section 59(1)(ab)”

**Substitute**

“rules made under section 127(1)(c)”.

- (8) Schedule 3, Part 1, paragraph 5(1)(d)(i)—

**Repeal**

“regulations made under section 59(1)(aa)”

**Substitute**

“rules made under section 127(1)(b)”.

- (9) Schedule 3, Part 1, paragraph 5(1)(d)(ii)(C)—

**Repeal**

“regulations made under section 59(1)(aa)”

**Substitute**

“rules made under section 127(1)(b)”.

- (10) Schedule 3, Part 2, after paragraph 9(a)—

**Add**

“(ab) state any other form of business in addition to the insurance business carried on by the insurer or its subsidiaries in the course of the financial year;”.

- (11) Schedule 3, English text, Part 5, paragraph 24(2)(b)—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

- (12) Schedule 3, English text, Part 5, paragraph 25—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

- (13) Schedule 3, Part 5, after paragraph 26—

**Add**

“26A. The amounts respectively of any of the following items relating to any other form of business (*non-insurance business*) in addition to the insurance business carried on by the authorized insurer must also be shown—

- (a) income from listed investments, income from unlisted investments and any other income that are generated from the insurer’s non-insurance business;
- (b) expenses incurred in the administration of the insurer’s non-insurance business, and any other expenses incurred in that business.”.

(14) Schedule 3, English text, Part 7, paragraph 38(1)—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

(15) Schedule 3, English text, Part 7, Form L1, Note—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

(16) Schedule 3, English text, Part 7, Form L2, Note 1—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

(17) Schedule 3, English text, Part 8, paragraph 41(2)—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

(18) Schedule 3, English text, Part 8, Form HKL1, Note—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

(19) Schedule 3, Part 8, Form HKL1, Note—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

(20) Schedule 3, English text, Part 8, Form HKL2, Note 1—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

(21) Schedule 3, Part 8, Form HKL2, Note 1—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.



**89. Fourth Schedule amended (proposed appointment of controller within the meaning of section 13A(1) or authorized representative under section 50B)**

- (1) Fourth Schedule, English text, heading—

**Repeal**

“FOURTH SCHEDULE”

**Substitute**

“Schedule 4”.

- (2) Schedule 4—

**Repeal**

“[ss. 13A(2)(a) &amp; 50B]”

**Substitute**

“[ss. 13A, 13AC, 13AE, 50B &amp; 136]”.

- (3) Schedule 4, English text, paragraph 1, heading—

**Repeal**

“Fourth Schedule”

**Substitute**

“Schedule 4”.

- (4) Schedule 4, English text, Form A—

**Repeal**

“[para. 2, 4th Sch.]”

**Substitute**

“[para. 2, Sch. 4]”.

- (5) Schedule 4, English text, Form B—

**Repeal**

“[para. 2, 4th Sch.]”

**Substitute**

“[para. 2, Sch. 4]”.

**90. Fifth Schedule amended (person proposing to become controller within the meaning of section 13B(1))**

- (1) Fifth Schedule, English text, heading—

**Repeal**

“FIFTH SCHEDULE”

**Substitute**

“Schedule 5”.

- (2) Schedule 5—

**Repeal**

“[s. 13B(2)(a)]”

**Substitute**

“[ss. 13B &amp; 136]”.

- (3) Schedule 5, English text, paragraph 1, heading—

**Repeal**

“Fifth Schedule”

**Substitute**

“Schedule 5”.

- (4) Schedule 5, English text, Form A—

**Repeal**

“[para. 2, 5th Sch.]”

**Substitute**

“[para. 2, Sch. 5]”.

- (5) Schedule 5, English text, Form B—

**Repeal**

“[para. 2, 5th Sch.]”

**Substitute**

“[para. 2, Sch. 5]”.

**91. Sixth Schedule amended (person who has become controller of insurer in contravention of section 13B(2))**

- (1) Sixth Schedule, English text, heading—

**Repeal**

“SIXTH SCHEDULE”

**Substitute**

“Schedule 6”.

- (2) Schedule 6—

**Repeal**

“[s. 13B(3)]”

**Substitute**

“[ss. 13B & 136]”.

- (3) Schedule 6, English text, paragraph 1, heading—

**Repeal**

“Sixth Schedule”

**Substitute**

“Schedule 6”.

- (4) Schedule 6, English text, Form A—

**Repeal**

“[para. 2, 6th Sch.]”

**Substitute**

“[para. 2, Sch. 6]”.

- (5) Schedule 6, English text, Form B—

**Repeal**

“[para. 2, 6th Sch.]”

**Substitute**

“[para. 2, Sch. 6]”.

- (6) Schedule 6, English text, Form B, paragraph 11—

**Repeal**

“the Insurance Companies Ordinance”

**Substitute**

“this Ordinance”.

**92. Seventh Schedule amended (powers of Manager of insurer)**

- (1) Seventh Schedule, English text, heading—

**Repeal**

“SEVENTH SCHEDULE”

**Substitute**

“Schedule 7”.

- (2) Schedule 7—

**Repeal**

“[ss. 38B(1)(b) & 59(1)(c)]”

**Substitute**

“[ss. 38B & 136]”.

**93. Eighth Schedule amended (assets which qualify as assets in Hong Kong)**

- (1) Eighth Schedule, English text, heading—

**Repeal**

“EIGHTH SCHEDULE”

**Substitute**

“Schedule 8”.

(2) Schedule 8—

**Repeal**

“[s. 25A]”

**Substitute**

“[ss. 25A & 136]”.

(3) Schedule 8, paragraph 1(c)—

**Repeal**

“, as defined in the Banking Ordinance (Cap. 155)”.

**94. Schedules 9, 10 and 11 added**

After Schedule 8—

**Add**

**“Schedule 9** [ss. 94 & 136]

## **Specified Decisions**

### **Part 1**

#### **Specified Decisions Made in relation to Insurers**

Column 1	Column 2	Column 3
Item	Description of decision	Provision
1.	Refusal to grant an authorization to carry on insurance business on the grounds that section 8(2) or (3) applies	Section 8(1)(b)(i)

Column 1	Column 2	Column 3
Item	Description of decision	Provision
2.	Refusal to grant an authorization to carry on insurance business	Section 8(1)(b)(ii)
3.	Imposition, amendment or revocation of a condition in relation to an authorization to carry on insurance business	Section 8(1)(a) or 12(1)
4.	Refusal to approve the appointment of an individual as a controller of an authorized insurer	Section 13A(5)
5.	Revocation of approval of appointment of an individual as a controller of an authorized insurer	Section 13A(7)
6.	Refusal to approve the appointment of a person as a director of an authorized insurer	Section 13AC(5)
7.	Revocation of approval of appointment of a person as a director of an authorized insurer	Section 13AC(7)
8.	Refusal to approve the appointment of an individual as a key person in control functions of an authorized insurer	Section 13AE(5)

Column 1	Column 2	Column 3
Item	Description of decision	Provision
9.	Revocation of approval of appointment of an individual as a key person in control functions of an authorized insurer	Section 13AE(7)
10.	Imposition, amendment or revocation of a condition in relation to the approval of appointment of a controller, director or key person in control functions of an authorized insurer	Section 13AF
11.	Objection to a person being proposed to become a controller of an authorized insurer	Section 13B(4)
12.	Objection to the appointment of a controller of an authorized insurer	Section 14(4)
13.	Refusal to approve the appointment of a person as an actuary of an authorized insurer	Section 15(3C)
14.	Revocation of approval of the appointment of a person as an actuary of an authorized insurer	Section 15(3E)
15.	Imposition of a restriction on effecting or varying	Section 27

Column 1	Column 2	Column 3
Item	Description of decision	Provision
	contracts of insurance by an authorized insurer	
16.	Imposition of a requirement on an authorized insurer about investments	Section 28
17.	Imposition of a requirement on an authorized insurer about maintenance of assets in Hong Kong	Section 29
18.	Imposition of an additional requirement on an authorized insurer about custody of assets	Section 30
19.	Imposition of a limitation of the premium income to be received by an authorized insurer	Section 31
20.	Imposition of a requirement on an authorized insurer	Section 35(1)
21.	Rescission or variation of a requirement imposed under sections 27 to 35(1)	Section 38(1)
22.	Determination of remuneration and expenses to be paid by an authorized insurer to an Advisor or Manager	Section 38E(5)
23.	Exercise of power to take	Section 41P(1)

Column 1	Column 2	Column 3
Item	Description of decision	Provision
	disciplinary action against an authorized insurer	
24.	Refusal to approve the appointment of a person as the authorized representative of Lloyd's	Section 50B
25.	Revocation of approval of the appointment of a person as the authorized representative of Lloyd's	Section 50B
26.	Exercise of power to take disciplinary action against Lloyd's, etc.	Section 50G

## Part 2

### Specified Decisions Made in respect of Insurance Intermediaries

Column	Column 2	Column 3
Item	Description of decision	Provision
1.	Refusal to grant an insurance agency licence	Section 64U(4)
2.	Refusal to grant an individual insurance agent licence	Section 64W(2)
3.	Refusal to grant a technical representative	Section 64Y(2)

Column	Column 2	Column 3
Item	Description of decision	Provision
	(agent) licence	
4.	Refusal to grant an insurance broker company licence	Section 64ZA(3)
5.	Refusal to grant a technical representative (broker) licence	Section 64ZC(2)
6.	Refusal to approve an individual as a responsible officer of a licensed insurance agency	Section 64ZE(3)
7.	Refusal to approve an individual as a responsible officer of a licensed insurance broker company	Section 64ZF(3)
8.	Imposition, amendment or revocation of a condition in relation to a licence granted under section 64U, 64W, 64Y, 64ZA or 64ZC or approval granted under section 64ZE or 64ZF	Section 64ZG
9.	Revocation of the approval granted under section 64ZE	Section 64ZL(2)
10.	Revocation of the approval granted under	Section 64ZM(2)

Column	Column 2	Column 3
Item	Description of decision	Provision
	section 64ZF	
11.	Refusal to renew a licence granted under section 64U, 64W, 64Y, 64ZA or 64ZC	Section 64ZV(4)
12.	Imposition, amendment or revocation of a condition in relation to a renewal of a licence granted under section 64U, 64W, 64Y, 64ZA or 64ZC	Section 64ZW
13.	Exercise of power to take disciplinary action	Section 80(1), (2) and (3)
14.	Revocation or suspension of a licence or approval that is regarded as having been granted under Part 4 of Schedule 11	Section 105 of Schedule 11
15.	Imposition, amendment or revocation of a condition in relation to a licence or approval that is regarded as having been granted under Part 4 of Schedule 11	Section 106 of Schedule 11
16.	Exercise of power to take disciplinary action against, or imposition of a	Section 110(3) of Schedule 11

Column	Column 2	Column 3
Item	Description of decision	Provision
	penalty or sanction on, a specified person as defined by section 107 of Schedule 11	
17.	Exercise of power to take disciplinary action against, or imposition of a penalty or sanction on, a specified person as defined by section 111 of Schedule 11	Section 113 of Schedule 11

**Schedule 10**[ss. 95, 96,  
97, 100,  
103 & 115]**Appointment of Members and Proceedings of Tribunal, etc.****1. Interpretation**

(1) In this Schedule—

*application for review* (覆核申請) means an application made under section 98;*chairperson* (主席) means the chairperson of the Tribunal;

**ordinary member** (普通成員) means a member of the Tribunal other than the chairperson;

**panel member** (上訴委員) means a member of the panel appointed under section 2 of this Schedule;

**parties** (各方), in relation to a review, means—

- (a) the Authority; and
- (b) the person making the application for review in question;

**Secretary** (局長) means the Secretary for Financial Services and the Treasury.

(2) In this Schedule—

**review** (覆核), **specified decision** (指明決定) and **Tribunal** (審裁處) have the same meaning as in Part XII.

## 2. Appointment of panel

- (1) Subject to section 96, the Chief Executive must appoint persons to a panel comprising the number of members that the Chief Executive considers appropriate.
- (2) A panel member—
  - (a) must not be a public officer (except a public officer by virtue only of being the chairperson of a board or tribunal established under an Ordinance); and
  - (b) must not be a member of the Authority.
- (3) Subject to subsections (4) and (5), a panel member is appointed for a period that the Chief Executive considers appropriate, and may, subject to the other provisions of this Ordinance, from time to time be reappointed.
- (4) A panel member may at any time resign from office by notice in writing to the Chief Executive.

- (5) The Chief Executive may by notice in writing remove a panel member from office on the grounds of incapacity, bankruptcy, neglect of duty, conflict of interest or misconduct.
- (6) To avoid doubt, section 95(3) does not require the appointment of persons to more than one panel under this section.

## 3. Appointment of chairperson

- (1) The chairperson must be appointed by the Chief Executive.
- (2) The chairperson—
  - (a) must be a former Justice of Appeal of the Court of Appeal;
  - (b) must be a former judge or a former deputy judge of the Court of First Instance; or
  - (c) must be eligible for appointment as a judge of the High Court under section 9 of the High Court Ordinance (Cap. 4).
- (3) The chairperson—
  - (a) must not be a public officer (except a public officer by virtue only of being the chairperson of a board or tribunal established under an Ordinance); and
  - (b) must not be a member of the Authority.
- (4) Subject to subsections (5) and (7), the chairperson is appointed for a term of 3 years or appointed to act in relation to any specified review, and may, subject to the other provisions of this Ordinance, from time to time be reappointed.
- (5) The chairperson may at any time resign from office by notice in writing to the Chief Executive.

- (6) A notice of resignation takes effect—
  - (a) on the date the Chief Executive receives the notice; or
  - (b) if a later date is specified in the notice, on that later date.
- (7) The Chief Executive may by notice in writing remove the chairperson from office—
  - (a) if the chairperson is no longer qualified for appointment as chairperson under subsection (2); or
  - (b) on the grounds of incapacity, bankruptcy, neglect of duty, conflict of interest or misconduct.
- (8) If a review has been commenced by the Tribunal but not completed before the expiry of the chairperson's term of office, the Chief Executive may authorize the chairperson to continue to act as the chairperson for the purpose of completing the review.

#### 4. Appointment of ordinary members

- (1) For determining a review, the Secretary on the recommendation of the chairperson must appoint 2 panel members as ordinary members in relation to the review.
- (2) Subject to subsections (3) and (5), an ordinary member is appointed to act in relation to any specified review, and may, subject to the other provisions of this Ordinance, from time to time be reappointed.
- (3) An ordinary member may at any time resign from office by notice in writing to the Secretary.
- (4) A notice of resignation takes effect—
  - (a) on the date the Secretary receives the notice; or

- (b) if a later date is specified in the notice, on that later date.
- (5) If an ordinary member ceases to be a panel member, he or she ceases to be an ordinary member.

#### 5. Sittings

- (1) The chairperson must convene the sittings of the Tribunal that are necessary to determine a review.
- (2) Before convening a sitting in respect of a review, the Tribunal may give directions to the parties to the review concerning—
  - (a) procedural matters to be complied with by the parties; and
  - (b) the time within which the parties are required to comply with those matters.
- (3) Subject to subsection (4), at any sitting of the Tribunal—
  - (a) the chairperson and 2 ordinary members must be present;
  - (b) the chairperson must preside; and
  - (c) every question before the Tribunal must be determined by the majority of votes cast by the chairperson and the ordinary members, except that a question of law is to be determined by the chairperson alone.
- (4) At any sitting of the Tribunal held in respect of any matter which is determined by the chairperson alone as the sole member of the Tribunal under section 8(1) of this Schedule—
  - (a) the chairperson only must be present; and



- (b) every question before the Tribunal must be determined by the chairperson.
- (5) Every sitting of the Tribunal must be held in public.
- (6) However, subsection (5) does not apply if the Tribunal, on its own initiative or on the application of any of the parties to the review, determines that in the interests of justice a sitting, or a part of the sitting, must be held in private.
- (7) If an application is made under subsection (6) for a determination that a sitting or any part of the sitting must be held in private, a hearing of the application must be held in private.
- (8) The parties to a review must, at any sitting of the Tribunal relating to the review, be entitled to be heard—
  - (a) in person, or—
    - (i) for the Authority or a company—through an officer or employee of the Authority or the company (as the case may be);
    - (ii) for a partnership—through a partner; or
    - (iii) for a sole proprietorship—through the sole proprietor; and
  - (b) through a counsel or solicitor or, with the leave of the Tribunal, through any other person.
- (9) The chairperson must prepare or cause to be prepared a record of the proceedings at any sitting of the Tribunal, which must contain the particulars relating to the proceedings that the chairperson considers appropriate.
- (10) The order of proceedings at any sitting of the Tribunal must be determined by the Tribunal in the manner most appropriate to the circumstances of the case.

## 6. Preliminary conferences

- (1) If the conditions set out in subsection (2) are satisfied, the chairperson may, on his or her own initiative or on the application of any of the parties to the review, direct that a conference be held for any one or more of the purposes set out in subsection (3).
- (2) The conditions are—
  - (a) the chairperson, after considering any material that has been submitted to the Tribunal in relation to the application for review by the parties to the review, considers it appropriate to hold the conference; and
  - (b) the parties agree or, for an application made by a party under subsection (1), the other party agrees.
- (3) The purposes are—
  - (a) to enable the parties to prepare for the conduct of the review;
  - (b) to assist the Tribunal to determine issues for the purposes of the review;
  - (c) to generally secure the just, expeditious and economical conduct of the review.
- (4) A conference is to be attended by the parties or their representatives and presided over by the chairperson.
- (5) At a conference held in accordance with a direction of the chairperson under subsection (1), the chairperson may—
  - (a) give any direction the chairperson considers necessary or desirable for securing the just, expeditious and economical conduct of the review; and

(b) endeavour to secure that the parties to the review make all agreements as they ought reasonably to have made in relation to the review.

(6) After a conference has been held in accordance with a direction of the chairperson under subsection (1), the chairperson must report to the Tribunal on the matters relating to the conference that the chairperson considers appropriate.

#### 7. Consent orders

(1) At any time after an application for review has been made, the Tribunal or chairperson may make any order which it or the chairperson is entitled to make under any provision of this Ordinance, whether or not the requirements otherwise applicable to the making of the order have been complied with, if the conditions set out in subsection (2) are met.

(2) The conditions are—

- (a) the parties to the review request, and agree to, the making of the order by the Tribunal or the chairperson (as the case may be); and
- (b) the parties consent to all of the terms of the order.

(3) Despite Part XII or any other provisions of this Schedule, an order made under subsection (1) by the Tribunal or chairperson must, for all purposes, be regarded as an order made under the provision in question in compliance with the requirements otherwise applicable to the making of the order.

(4) In this section—

**order** (命令) includes any finding, determination and any other decision.

#### 8. Chairperson as sole member of Tribunal

(1) The chairperson may determine a review or an application as the sole member of the Tribunal if—

- (a) at any time after an application for the review has been made but before any sitting of the Tribunal is held to determine the review, the parties to the review have, by notice in writing given to the Tribunal, informed the Tribunal that they have agreed that the review may be determined by the chairperson as the sole member;
- (b) the application is an application to the Tribunal under section 98 for an extension of the time within which an application for review may be made; or
- (c) the application is an application to the Tribunal under section 108 for a stay of execution of a specified decision.

(2) If subsection (1) applies, the Tribunal constituted by the chairperson as the sole member of the Tribunal is to be regarded for all purposes as the Tribunal constituted also by 2 ordinary members.

(3) After making a determination under subsection (1)(c), the chairperson must report to the Tribunal the determination and the reasons for the determination, and other matters relating to the determination that the chairperson considers appropriate.

(4) In the circumstances specified in subsection (5), a person who is eligible to be appointed as a chairperson under section 3 of this Schedule must, on appointment by the Chief Executive for the purpose, determine the application in question as if he or she were the chairperson duly appointed under this Ordinance, and

the provisions of this Ordinance are to apply to him or her accordingly.

- (5) The circumstances are—
- (a) there is an application described in subsection (1)(c); and
  - (b) the chairperson—
    - (i) cannot perform his or her functions because of illness, absence from Hong Kong or any other reason; or
    - (ii) considers it improper or undesirable that he or she should perform his or her functions in relation to the application.

## 9. Privileges and immunities

Except as otherwise provided in this Ordinance, the Tribunal, the chairperson and ordinary members, and any party, witness, counsel, solicitor, or any other person involved, in a review, have the same privileges and immunities in respect of the review as they would have if the review were civil proceedings before the Court of First Instance.

## Schedule 11

[ss. 2, 13 &  
137 & Sch. 9]

# Savings and Transitional Arrangements for Insurance Companies (Amendment) Ordinance 2014

## Part 1

## Preliminary

### 1. Interpretation of Schedule 11

In this Schedule—

**applicable rule** (適用規則) means a rule that is—

- (a) referred to in section 123 or 124 of this Schedule; and
- (b) published under section 125(1) of this Schedule;

**approved broker body** (認可經紀團體) means a body of insurance brokers approved under section 70 of the pre-amended Ordinance;

**commencement date** (實施日期)—

- (a) except in relation to Parts 4, 5, 6, 7 and 8 of this Schedule, means the date on which section 10 of the Amendment Ordinance comes into operation;
- (b) in relation to Parts 4, 5, 6, 7 and 8 of this Schedule, means the date on which section 71 of the Amendment Ordinance comes into operation;

**HKFI** (保聯) means the Hong Kong Federation of Insurers;

**IARB** (委員會) means the Insurance Agents Registration Board set up by HKFI;

**information** (資訊) includes data, text, images, sound codes, computer programmes, software and databases;

**personal data** (個人資料) has the meaning given by section 2(1) of the Personal Data (Privacy) Ordinance (Cap. 486);

**record** (紀錄) means information that is inscribed on, stored in or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form.

## Part 2

### Savings Provisions

#### 2. Savings relating to former authority

- (1) If, immediately before the commencement date, an act was in the process of being done by or in relation to the former authority, the act may be continued by or in relation to the Authority.
- (2) If, immediately before the commencement date, any legal proceedings to which the former authority was a party, or that are instituted on behalf of the former authority, were pending—
  - (a) the Authority is substituted as a party to the proceedings in lieu of the former authority; and
  - (b) the proceedings are to continue as if the Authority had always been that party.
- (3) A right of appeal subsisting immediately before the commencement date against the former authority may be exercised against the Authority in accordance with this Ordinance.
- (4) If a form, document, instrument or act—

- (a) has been issued, made or done by or on behalf of the former authority; and
- (b) was in force immediately before the commencement date, or is to take effect on or after that date,

it has effect as if it was issued, made or done by or on behalf of the Authority in so far as that is required for continuing its effect after the commencement date.

- (5) If an act of performing a function by or on behalf of the former authority under the pre-amended Ordinance was in force immediately before the commencement date, or is to take effect on or after that date, the act has effect as if the function was performed by the Authority under this Ordinance in so far as that is required for continuing the effect of the act after that date.
- (6) If, immediately before the commencement date—
  - (a) an application for anything referred to in subsection (4);
  - (b) a request for the performance of a function referred to in subsection (5); or
  - (c) an application or request of a similar nature made to the former authority,
 has not been disposed of, it is to be regarded as an application or request to the Authority, and is to be disposed of accordingly.
- (7) An—
  - (a) authorization, consent, approval or other permission of any description that has been given, or is deemed to have been given, in relation to an authorized insurer under the pre-amended Ordinance; or

- (b) exemption or condition to, or limitation for, an exemption that has been given or imposed in relation to an authorized insurer under the pre-amended Ordinance,

and was in force immediately before the commencement date is to continue in force for the remainder of its validity period as if the Amendment Ordinance had not been enacted.

- (8) If a form, document or instrument (including a form, document or instrument referred to in subsection (4) issued or made by or on behalf of the former authority for the performance of its function under the pre-amended Ordinance)—

- (a) was specified, prescribed, printed or duplicated for use in connection with the pre-amended Ordinance; and

- (b) was in force immediately before the commencement date,

it may be so used despite the fact that it contains a reference to the former authority, and that reference is to be construed as a reference to the Authority.

### Part 3

## Transfer of Records from Former Authority to Authority

### 3. Former authority to transfer records to Authority

- (1) All records in the former authority's custody and are, in the opinion of the Authority, required for it to perform its functions under this Ordinance must be transferred from the former authority to the Authority on the

commencement date or as soon as practicable after that date.

- (2) In relation to a record transferred under this section, all the rights and obligations of the former authority subsisting immediately before the transfer are to be transferred to the Authority on the transfer of the record.
- (3) 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 transferred under this section.
- (4) In relation to personal data transferred under this section, the Personal Data (Privacy) Ordinance (Cap. 486) applies as if the data had been received by the Authority rather than the former authority.
- (5) In relation to personal data transferred under this section, the Authority must ensure that the data is used, disclosed and retained for the purpose for which the data was to be used at the time of the collection.
- (6) The Privacy Commissioner for Personal Data may, on and after the date on which the transfer is completed, exercise in relation to the Authority any power under the Personal Data (Privacy) Ordinance (Cap. 486) that the Commissioner could have, immediately before that date, exercised in relation to the former authority for a breach or alleged breach by the former authority of a requirement under that Ordinance.
- (7) The transfer of a record by the former authority to the Authority under this section does not amount to—
- (a) a breach of duty of confidentiality to which the former authority is subject immediately before the transfer; or

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

## Part 4

### Savings and Transitional Arrangements Relating to Licensing and Approval

#### Division 1—Preliminary

#### 4. Interpretation of this Part

In this Part—

*specified date* (指明日期), in relation to an application made under section 64U(1), 64W(1), 64Y(1), 64ZA(1), 64ZC(1), 64ZE(1) or 64ZF(1)—

- (a) if the application is granted, means the date on which the application is granted by the Authority to the applicant;
- (b) if the application is rejected, means—
  - (i) the expiry of 21 days after the notice informing the applicant of the results of the application has been sent; or
  - (ii) (if an appeal is made against the results of the application within the period ending 21 days after the notice has been sent) the date on which the appeal is disposed of or withdrawn;

*transitional period* (過渡期) means the period of 3 years beginning on the commencement date.

### Division 2—Savings and Transitional Arrangements for Insurance Agencies

#### Subdivision 1—General Provision

#### 5. Insurance agencies registered with IARB

If a person was, immediately before the commencement date, registered with IARB as an insurance agency, the person is to be regarded as—

- (a) having been granted a licence under section 64U; and
- (b) being so licensed from the commencement date until the expiry of the transitional period.

#### Subdivision 2—Decision of Revocation not yet Taken Effect on Commencement Date

#### 6. Application of section 7 of this Schedule

Section 7 of this Schedule applies if—

- (a) a person was registered with IARB as an insurance agency before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the person be revoked;
- (c) the decision has not taken effect on the commencement date; and
- (d) the person does not appeal against the decision.

#### 7. No appeal against decision been made

Despite section 5 of this Schedule, the person is to be regarded as—

- (a) having been granted a licence under section 64U; and
- (b) being so licensed from the commencement date until the expiry of the date on which the decision takes effect.

### 8. Application of sections 9, 10 and 11 of this Schedule

Sections 9, 10 and 11 of this Schedule apply if—

- (a) a person was registered with IARB as an insurance agency before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the person be revoked;
- (c) the decision has not taken effect on the commencement date; and
- (d) the person has appealed against the decision but the appeal is not finally disposed of before the commencement date or the person appeals against the decision on or after the commencement date.

### 9. No application for stay of execution or application for stay of execution rejected

If the person does not apply for a stay of execution of the decision or if the person makes such an application but the application is rejected, then despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

- (a) from the commencement date until the expiry of the date on which the decision takes effect; and
- (b) if the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule—

from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

### 10. Stay of execution granted after decision takes effect

If the person applies for a stay of execution of the decision after the decision takes effect and the application is granted, then despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

- (a) from the commencement date until the expiry of the date on which the decision takes effect; and
- (b) on appeal—
  - (i) if the decision is reversed by the Tribunal, subject to section 19(1) of this Schedule— from the date on which the application for the stay of execution of the decision is granted until the expiry of the transitional period;
  - (ii) if the decision is confirmed by the Tribunal— from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the determination of the Tribunal takes effect; or
  - (iii) if the appeal is withdrawn— from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the appeal is withdrawn.

### 11. Stay of execution granted before decision takes effect

If the person applies for a stay of execution of the decision before the decision takes effect and the application is granted,

then despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule—from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the expiry of the date on which the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the expiry of the date on which the appeal is withdrawn.

### **Subdivision 3—Stay of Execution Granted before Commencement Date**

#### **12. Application of section 13 of this Schedule**

Section 13 of this Schedule applies if—

- (a) a person was registered with IARB as an insurance agency before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the person be revoked;
- (c) the person has appealed against the decision and applied for a stay of execution of the decision and the application was granted before the commencement date; and
- (d) the appeal is not finally disposed of on the commencement date.

#### **13. Stay of execution granted before commencement date and appeal not disposed of on commencement date**

Despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule—from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the expiry of the date on which the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the expiry of the date on which the appeal is withdrawn.

### **Subdivision 4—Decision of Revocation Taken Effect on or before Commencement Date**

#### **14. Application of sections 15 and 16 of this Schedule**

Sections 15 and 16 of this Schedule apply if—

- (a) a person was registered with IARB as an insurance agency before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the person be revoked;
- (c) the decision has taken effect on or before the commencement date;
- (d) the person appeals against the decision before, on or after the commencement date; and



- (e) (if the person has appealed against the decision before the commencement date) the appeal is not finally disposed of on the commencement date.

**15. No application for stay of execution or application for stay of execution rejected**

If—

- (a) the person does not apply for a stay of execution of the decision or the person makes such an application but the application is rejected; and
- (b) the decision is reversed by the Tribunal on appeal,

then despite section 5 of this Schedule and subject to section 19(1) of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

**16. Stay of execution granted after commencement date**

If the person applies for a stay of execution of the decision and the application is granted after the commencement date, then despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule—from the date on which the application for the stay of execution of the decision is granted until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the date on which the application for the stay of execution of the decision is granted until

the expiry of the date on which the determination of the Tribunal takes effect; or

- (c) if the appeal is withdrawn—from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the appeal is withdrawn.

**Subdivision 5—Application for Registration Rejected before Commencement Date**

**17. Applications for registration rejected**

If—

- (a) a person applied to IARB for registration as an insurance agency but IARB has, before the commencement date, made a decision that the application be rejected;
- (b) the person appeals against the decision; and
- (c) the decision is reversed by the Tribunal on appeal,

subject to section 19(1) of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

**Subdivision 6—Supplementary Provisions**

**18. Appeals not disposed of on expiry of transitional period**

In relation to sections 10, 11, 13 and 16 of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the person is to be regarded as having been granted a licence under section 64U until the expiry of that date.

**19. Appeals to Court of Appeal**

- (1) In relation to sections 9(b), 10(b)(i), 11(a), 13(a), 15, 16(a) and 17 of this Schedule, if—
  - (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and
  - (b) the Court of Appeal reverses the determination, the licence regarded as having been granted under section 64U is to remain in force until the expiry of the date on which the decision of the Court of Appeal takes effect.
- (2) In relation to sections 10(b)(ii), 11(b), 13(b) and 16(b) of this Schedule, if—
  - (a) the person appeals to the Court of Appeal against the determination of the Tribunal; and
  - (b) the Court of Appeal reverses the determination, the person is also to be regarded as having been granted a licence under section 64U from the date on which the decision of the Court of Appeal takes effect until the expiry of the transitional period.

**20. Effect of application for insurance agency licence**

If a person who is regarded as having been granted a licence under section 64U makes an application for an insurance agency licence under that section in the manner, and within the time, specified by the Authority, the licence regarded as having been granted under that section is to remain in force until the specified date.

**21. Conditions imposed by IARB**

A condition imposed by IARB in relation to the registration of a person as an insurance agency that was in force immediately

before the commencement date (except a condition relating to the payment of fees or charges to IARB) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the licence that is regarded as having been granted under section 64U to the person.

**22. Requirements to comply with conditions**

A person who is regarded as having been granted a licence under section 64U must, during the period when the licence is in force, comply with any condition under sections 21 and 106 of this Schedule.

**23. Application of provisions relating to licensed insurance agencies**

A provision in this Ordinance relating to a licensed insurance agency applies to a person who is regarded under this Division as having been granted a licence under section 64U.

**Division 3—Savings and Transitional Arrangements for Individual Agents****Subdivision 1—General Provision****24. Individual agents registered with IARB**

If an individual was, immediately before the commencement date, registered with IARB as an individual agent, the individual is to be regarded as—

- (a) having been granted a licence under section 64W; and
- (b) being so licensed from the commencement date until the expiry of the transitional period.

**Subdivision 2—Decision of Revocation not yet Taken  
Effect on Commencement Date****25. Application of section 26 of this Schedule**

Section 26 of this Schedule applies if—

- (a) an individual was registered with IARB as an individual agent before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the decision has not taken effect on the commencement date; and
- (d) the individual does not appeal against the decision.

**26. No appeal against decision been made**

Despite section 24 of this Schedule, the individual is to be regarded as—

- (a) having been granted a licence under section 64W; and
- (b) being so licensed from the commencement date until the expiry of the date on which the decision takes effect.

**27. Application of sections 28, 29 and 30 of this Schedule**

Sections 28, 29 and 30 of this Schedule apply if—

- (a) an individual was registered with IARB as an individual agent before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;

- (c) the decision has not taken effect on the commencement date; and
- (d) the individual has appealed against the decision but the appeal is not finally disposed of before the commencement date or the individual appeals against the decision on or after the commencement date.

**28. No application for stay of execution or application for stay of execution rejected**

If the individual does not apply for a stay of execution of the decision or if the individual makes such an application but the application is rejected, then despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

- (a) from the commencement date until the expiry of the date on which the decision takes effect; and
- (b) if the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule—  
from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

**29. Stay of execution granted after decision takes effect**

If the individual applies for a stay of execution of the decision after the decision takes effect and the application is granted, then despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

- (a) from the commencement date until the expiry of the date on which the decision takes effect; and

## (b) on appeal—

- (i) if the decision is reversed by the Tribunal, subject to section 38(1) of this Schedule— from the date on which the application for the stay of execution of the decision is granted until the expiry of the transitional period;
- (ii) if the decision is confirmed by the Tribunal— from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the determination of the Tribunal takes effect; or
- (iii) if the appeal is withdrawn—from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the appeal is withdrawn.

**30. Stay of execution granted before decision takes effect**

If the individual applies for a stay of execution of the decision before the decision takes effect and the application is granted, then despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule— from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the expiry of the date on which the determination of the Tribunal takes effect; or

- (c) if the appeal is withdrawn—from the commencement date until the expiry of the date on which the appeal is withdrawn.

### **Subdivision 3—Stay of Execution Granted before Commencement Date**

**31. Application of section 32 of this Schedule**

Section 32 of this Schedule applies if—

- (a) an individual was registered with IARB as an individual agent before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the individual has appealed against the decision and applied for a stay of execution of the decision and the application was granted before the commencement date; and
- (d) the appeal is not finally disposed of on the commencement date.

**32. Stay of execution granted before commencement date and appeal not disposed of on commencement date**

Despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule— from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the

expiry of the date on which the determination of the Tribunal takes effect; or

- (c) if the appeal is withdrawn—from the commencement date until the expiry of the date on which the appeal is withdrawn.

#### **Subdivision 4—Decision of Revocation Taken Effect on or before Commencement Date**

##### **33. Application of sections 34 and 35 of this Schedule**

Sections 34 and 35 of this Schedule apply if—

- (a) an individual was registered with IARB as an individual agent before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the decision has taken effect on or before the commencement date;
- (d) the individual appeals against the decision before, on or after the commencement date; and
- (e) (if the individual has appealed against the decision before the commencement date) the appeal is not finally disposed of on the commencement date.

##### **34. No application for stay of execution or application for stay of execution rejected**

If—

- (a) the individual does not apply for a stay of execution of the decision or the individual makes such an application but the application is rejected; and

(b) the decision is reversed by the Tribunal on appeal, then despite section 24 of this Schedule and subject to section 38(1) of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

##### **35. Stay of execution granted after commencement date**

If the individual applies for a stay of execution of the decision and the application is granted after the commencement date, then despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule—from the date on which the application for the stay of execution of the decision is granted until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the appeal is withdrawn.

**Subdivision 5—Application for Registration Rejected  
before Commencement Date****36. Applications for registration rejected**

If—

- (a) an individual applied to IARB for registration as an individual agent but IARB has, before the commencement date, made a decision that the application be rejected;
- (b) the individual appeals against the decision; and
- (c) the decision is reversed by the Tribunal on appeal,

subject to section 38(1) of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

**Subdivision 6—Supplementary Provisions****37. Appeals not disposed of on expiry of transitional period**

In relation to sections 29, 30, 32 and 35 of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the individual is to be regarded as having been granted a licence under section 64W until the expiry of that date.

**38. Appeals to Court of Appeal**

- (1) In relation to sections 28(b), 29(b)(i), 30(a), 32(a), 34, 35(a) and 36 of this Schedule, if—
  - (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and

- (b) the Court of Appeal reverses the determination, the licence regarded as having been granted under section 64W is to remain in force until the expiry of the date on which the decision of the Court of Appeal takes effect.

- (2) In relation to sections 29(b)(ii), 30(b), 32(b) and 35(b) of this Schedule, if—

- (a) the individual appeals to the Court of Appeal against the determination of the Tribunal; and
- (b) the Court of Appeal reverses the determination, the individual is also to be regarded as having been granted a licence under section 64W from the date on which the decision of the Court of Appeal takes effect until the expiry of the transitional period.

**39. Effect of application for individual insurance agent licence**

If an individual who is regarded as having been granted a licence under section 64W makes an application for an individual insurance agent licence under that section in the manner, and within the time, specified by the Authority, the licence regarded as having been granted under that section is to remain in force until the specified date.

**40. Conditions imposed by IARB**

A condition imposed by IARB in relation to the registration of an individual as an individual agent that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to IARB) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the licence that is regarded as having been granted under section 64W to the individual.

**41. Requirements to comply with conditions**

An individual who is regarded as having been granted a licence under section 64W must, during the period when the licence is in force, comply with any condition under sections 40 and 106 of this Schedule.

**42. Application of provisions relating to licensed individual insurance agents**

A provision in this Ordinance relating to a licensed individual insurance agent applies to an individual who is regarded under this Division as having been granted a licence under section 64W.

**Division 4—Savings and Transitional Arrangements  
for Technical Representatives and Responsible  
Officers Registered with IARB**

**Subdivision 1—General Provision****43. Technical representatives and responsible officers registered with IARB**

If an individual was, immediately before the commencement date, registered with IARB as a technical representative or a responsible officer, the individual is to be regarded as—

- (a) having been granted a licence under section 64Y; and
- (b) being so licensed from the commencement date until the expiry of the transitional period.

**Subdivision 2—Decision of Revocation not yet Taken  
Effect on Commencement Date**

**44. Application of section 45 of this Schedule**

Section 45 of this Schedule applies if—

- (a) an individual was registered with IARB as a technical representative or a responsible officer before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the decision has not taken effect on the commencement date; and
- (d) the individual does not appeal against the decision.

**45. No appeal against decision been made**

Despite section 43 of this Schedule, the individual is to be regarded as—

- (a) having been granted a licence under section 64Y; and
- (b) being so licensed from the commencement date until the expiry of the date on which the decision takes effect.

**46. Application of sections 47, 48 and 49 of this Schedule**

Sections 47, 48 and 49 of this Schedule apply if—

- (a) an individual was registered with IARB as a technical representative or a responsible officer before the commencement date;

- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the decision has not taken effect on the commencement date; and
- (d) the individual has appealed against the decision but the appeal is not finally disposed of before the commencement date or the individual appeals against the decision on or after the commencement date.

**47. No application for stay of execution or application for stay of execution rejected**

If the individual does not apply for a stay of execution of the decision or if the individual makes such an application but the application is rejected, then despite section 43 of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed—

- (a) from the commencement date until the expiry of the date on which the decision takes effect; and
- (b) if the decision is reversed by the Tribunal on appeal, subject to section 57(1) of this Schedule—  
from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

**48. Stay of execution granted after decision takes effect**

If the individual applies for a stay of execution of the decision after the decision takes effect and the application is granted, then despite section 43 of this Schedule, the individual is to be

regarded as having been granted a licence under section 64Y and as being so licensed—

- (a) from the commencement date until the expiry of the date on which the decision takes effect; and
- (b) on appeal—
  - (i) if the decision is reversed by the Tribunal, subject to section 57(1) of this Schedule—  
from the date on which the application for the stay of execution of the decision is granted until the expiry of the transitional period;
  - (ii) if the decision is confirmed by the Tribunal—  
from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the determination of the Tribunal takes effect; or
  - (iii) if the appeal is withdrawn—from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the appeal is withdrawn.

**49. Stay of execution granted before decision takes effect**

If the individual applies for a stay of execution of the decision before the decision takes effect and the application is granted, then despite section 43 of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 57(1) of this Schedule—  
from the commencement date until the expiry of the transitional period;



- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the expiry of the date on which the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the expiry of the date on which the appeal is withdrawn.

### **Subdivision 3—Stay of Execution Granted before Commencement Date**

#### **50. Application of section 51 of this Schedule**

Section 51 of this Schedule applies if—

- (a) an individual was registered with IARB as a technical representative or a responsible officer before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the individual has appealed against the decision and applied for a stay of execution of the decision and the application was granted before the commencement date; and
- (d) the appeal is not finally disposed of on the commencement date.

#### **51. Stay of execution granted before commencement date and appeal not disposed of on commencement date**

Despite section 43 of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 57(1) of this Schedule—from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the expiry of the date on which the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the expiry of the date on which the appeal is withdrawn.

### **Subdivision 4—Decision of Revocation Taken Effect on or before Commencement Date**

#### **52. Application of sections 53 and 54 of this Schedule**

Sections 53 and 54 of this Schedule apply if—

- (a) an individual was registered with IARB as a technical representative or a responsible officer before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the decision has taken effect on or before the commencement date;
- (d) the individual appeals against the decision before, on or after the commencement date; and
- (e) (if the individual has appealed against the decision before the commencement date) the appeal is not finally disposed of on the commencement date.

**53. No application for stay of execution or application for stay of execution rejected**

If—

- (a) the individual does not apply for a stay of execution of the decision or the individual makes such an application but the application is rejected; and
  - (b) the decision is reversed by the Tribunal on appeal,
- then despite section 43 of this Schedule and subject to section 57(1) of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

**54. Stay of execution granted after commencement date**

If the individual applies for a stay of execution of the decision and the application is granted after the commencement date, then despite section 43 of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 57(1) of this Schedule—from the date on which the application for the stay of execution of the decision is granted until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the date on which the application for the stay of execution of the

decision is granted until the expiry of the date on which the appeal is withdrawn.

**Subdivision 5—Application for Registration Rejected before Commencement Date****55. Applications for registration rejected**

If—

- (a) an individual applied to IARB for registration as a technical representative or a responsible officer but IARB has, before the commencement date, made a decision that the application be rejected;
  - (b) the individual appeals against the decision; and
  - (c) the decision is reversed by the Tribunal on appeal,
- subject to section 57(1) of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

**Subdivision 6—Supplementary Provisions****56. Appeals not disposed of on expiry of transitional period**

In relation to sections 48, 49, 51 and 54 of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the individual is to be regarded as having been granted a licence under section 64Y until the expiry of that date.

**57. Appeals to Court of Appeal**

- (1) In relation to sections 47(b), 48(b)(i), 49(a), 51(a), 53, 54(a) and 55 of this Schedule, if—

- (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and
  - (b) the Court of Appeal reverses the determination, the licence regarded as having been granted under section 64Y is to remain in force until the expiry of the date on which the decision of the Court of Appeal takes effect.
- (2) In relation to sections 48(b)(ii), 49(b), 51(b) and 54(b) of this Schedule, if—
- (a) the individual appeals to the Court of Appeal against the determination of the Tribunal; and
  - (b) the Court of Appeal reverses the determination, the individual is also to be regarded as having been granted a licence under section 64Y from the date on which the decision of the Court of Appeal takes effect until the expiry of the transitional period.

**58. Effect of application for technical representative (agent) licence**

If an individual who is regarded as having been granted a licence under section 64Y makes an application for a technical representative (agent) licence under that section in the manner, and within the time, specified by the Authority, the licence regarded as having been granted under that section is to remain in force until the specified date.

**59. Conditions imposed by IARB**

A condition imposed by IARB in relation to the registration of an individual as a technical representative or a responsible officer (as the case may be) that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to IARB) is, on the

commencement date, taken to be a condition imposed by the Authority in relation to the licence that is regarded as having been granted under section 64Y to the individual.

**60. Requirements to comply with conditions**

An individual who is regarded as having been granted a licence under section 64Y must, during the period when the licence is in force, comply with any condition under sections 59 and 106 of this Schedule.

**61. Application of provisions relating to licensed technical representative (agent)**

A provision in this Ordinance relating to a licensed technical representative (agent) applies to an individual who is regarded under this Division as having been granted a licence under section 64Y.

**Division 5—Savings and Transitional Arrangements for Authorized Insurance Brokers**

**Subdivision 1—General Provision**

**62. Authorized insurance brokers registered with approved broker bodies**

If a company was, immediately before the commencement date, registered with an approved broker body as a member, the company is to be regarded as—

- (a) having been granted a licence under section 64ZA; and
- (b) being so licensed from the commencement date until the expiry of the transitional period.

**Subdivision 2—Decision of Expulsion not yet Taken Effect immediately before Commencement Date****63. Company being expelled from membership of approved broker body**

(1) Despite section 62 of this Schedule, if—

- (a) a company was registered with an approved broker body as a member before the commencement date;
- (b) the approved broker body with which the company was registered has, before the commencement date, made a decision that the company be expelled from the membership of the body; and
- (c) the decision has not taken effect immediately before the commencement date,

subject to section 65(1) of this Schedule, the company is to be regarded as having been granted a licence under section 64ZA and as being so licensed from the commencement date until the expiry of the date specified in subsection (2).

(2) The date specified for subsection (1) is—

- (a) if the company does not appeal against the decision, the date on which the decision takes effect;
- (b) if the company appeals against the decision and—
  - (i) if the decision is reversed by the Tribunal on appeal, subject to section 65(1) of this Schedule, the date on which the transitional period expires;
  - (ii) if the decision is confirmed by the Tribunal on appeal, the date on which the determination of the Tribunal takes effect; or

- (iii) if the appeal is withdrawn, the date on which the appeal is withdrawn.

**Subdivision 3—Supplementary Provisions****64. Appeals not disposed of on expiry of transitional period**

In relation to section 63(1) and (2)(b) of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the company is to be regarded as having been granted a licence under section 64ZA until the expiry of that date.

**65. Appeals to Court of Appeal**

(1) In relation to section 63(1) and (2)(b)(i) of this Schedule, if—

- (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and
- (b) the Court of Appeal reverses the determination, the licence regarded as having been granted under section 64ZA is to remain in force until the expiry of the date on which the decision of the Court of Appeal takes effect.

(2) In relation to section 63(1) and (2)(b)(ii) of this Schedule, if—

- (a) the company appeals to the Court of Appeal against the determination of the Tribunal; and
- (b) the Court of Appeal reverses the determination, the company is also to be regarded as having been granted a licence under section 64ZA from the date on which the decision of the Court of Appeal takes effect until the expiry of the transitional period.

**66. Effect of application for insurance broker company licence**

If a company which is regarded as having been granted a licence under section 64ZA makes an application for an insurance broker company licence under that section in the manner, and within the time, specified by the Authority, the licence regarded as having been granted under that section is to remain in force until the specified date.

**67. Conditions imposed by approved broker body**

A condition imposed by an approved broker body in relation to the registration of a company as a member that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to the approved broker body) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the licence that is regarded as having been granted under section 64ZA to the company.

**68. Requirements to comply with conditions**

A company which is regarded as having been granted a licence under section 64ZA must, during the period when the licence is in force, comply with any condition under sections 67 and 106 of this Schedule.

**69. Application of provisions relating to licensed insurance broker companies**

A provision in this Ordinance relating to a licensed insurance broker company applies to a company which is regarded under this Division as having been granted a licence under section 64ZA.

## **Division 6—Savings and Transitional Arrangements for Technical Representatives and Chief Executives Registered with Approved Broker Bodies**

### **Subdivision 1—General Provision**

**70. Technical representatives and chief executives registered with approved broker bodies**

If an individual was, immediately before the commencement date, registered with an approved broker body as a technical representative or a chief executive, the individual is to be regarded as—

- (a) having been granted a licence under section 64ZC; and
- (b) being so licensed from the commencement date until the expiry of the transitional period.

### **Subdivision 2—Decision of Removal from Register not yet Taken Effect immediately before Commencement Date**

**71. Individual whose name being removed from register of approved broker body**

(1) Despite section 70 of this Schedule, if—

- (a) an individual was registered with an approved broker body as a technical representative or a chief executive before the commencement date;
- (b) the approved broker body with which the individual was registered has, before the commencement date, made a decision that the individual's name be removed from the relevant register maintained by the body; and

- (c) the decision has not taken effect immediately before the commencement date,
- subject to section 73(1) of this Schedule, the individual is to be regarded as having been granted a licence under section 64ZC and as being so licensed from the commencement date until the expiry of the date specified in subsection (2).
- (2) The date specified for subsection (1) is—
- (a) if the individual does not appeal against the decision, the date on which the decision takes effect; or
  - (b) if the individual appeals against the decision and—
    - (i) if the decision is reversed by the Tribunal on appeal, subject to section 73(1) of this Schedule, the date on which the transitional period expires;
    - (ii) if the decision is confirmed by the Tribunal on appeal, the date on which the determination of the Tribunal takes effect; or
    - (iii) if the appeal is withdrawn, the date on which the appeal is withdrawn.

### Subdivision 3—Supplementary Provisions

#### 72. Appeals not disposed of on expiry of transitional period

In relation to section 71(1) and (2)(b) of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the individual is to be regarded as having been granted a licence under section 64ZC until the expiry of that date.

#### 73. Appeals to Court of Appeal

- (1) In relation to section 71(1) and (2)(b)(i) of this Schedule, if—
  - (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and
  - (b) the Court of Appeal reverses the determination, the licence regarded as having been granted under section 64ZC is to remain in force until the expiry of the date on which the decision of the Court of Appeal takes effect.
- (2) In relation to section 71(1) and (2)(b)(ii) of this Schedule, if—
  - (a) the individual appeals to the Court of Appeal against the determination of the Tribunal; and
  - (b) the Court of Appeal reverses the determination, the individual is also to be regarded as having been granted a licence under section 64ZC from the date on which the decision of the Court of Appeal takes effect until the expiry of the transitional period.

#### 74. Effect of application for technical representative (broker) licence

If an individual who is regarded as having been granted a licence under section 64ZC makes an application for a technical representative (broker) licence under that section in the manner, and within the time, specified by the Authority, the licence regarded as having been granted under that section is to remain in force until the specified date.

**75. Conditions imposed by approval broker body**

A condition imposed by an approved broker body in relation to the registration of an individual as a technical representative or a chief executive that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to the approved broker body) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the licence that is regarded as having been granted under section 64ZC to the individual.

**76. Requirements to comply with conditions**

An individual who is regarded as having been granted a licence under section 64ZC must, during the period when the licence is in force, comply with any condition under sections 75 and 106 of this Schedule.

**77. Application of provisions relating to licensed technical representative (broker)**

A provision in this Ordinance relating to a licensed technical representative (broker) applies to an individual who is regarded under this Division as having been granted a licence under section 64ZC.

**Division 7—Savings and Transitional Arrangements for Responsible Officers of Insurance Agencies****Subdivision 1—General Provision****78. Responsible officers of insurance agencies registered with IARB**

If—

- (a) an individual was, immediately before the commencement date, registered with IARB as a responsible officer of an insurance agency registered with IARB; and
- (b) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U,

the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved from the commencement date until the expiry of the transitional period.

**Subdivision 2—Decision of Revocation not yet Taken Effect on Commencement Date****79. Application of section 80 of this Schedule**

Section 80 of this Schedule applies if—

- (a) an individual was registered with IARB as a responsible officer of an insurance agency registered with IARB before the commencement date;
- (b) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U;
- (c) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (d) the decision has not taken effect on the commencement date; and
- (e) the individual does not appeal against the decision.

**80. No appeal against decision been made**

Despite section 78 of this Schedule, the individual is to be regarded as—

- (a) having been granted an approval under section 64ZE as a responsible officer of the insurance agency; and
- (b) being so approved from the commencement date until the expiry of the date on which the decision takes effect.

**81. Application of sections 82, 83 and 84 of this Schedule**

Sections 82, 83 and 84 of this Schedule apply if—

- (a) an individual was registered with IARB as a responsible officer of an insurance agency registered with IARB before the commencement date;
- (b) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U;
- (c) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (d) the decision has not taken effect on the commencement date; and
- (e) the individual has appealed against the decision but the appeal is not finally disposed of before the commencement date or the individual appeals against the decision on or after the commencement date.

**82. No application for stay of execution or application for stay of execution rejected**

If the individual does not apply for a stay of execution of the decision or if the individual makes such an application but the application is rejected, then despite section 78 of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

- (a) from the commencement date until the expiry of the date on which the decision takes effect; and
- (b) if the decision is reversed by the Tribunal on appeal, subject to section 92(1) of this Schedule—  
from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

**83. Stay of execution granted after decision takes effect**

If the individual applies for a stay of execution of the decision after the decision takes effect and the application is granted, then despite section 78 of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

- (a) from the commencement date until the expiry of the date on which the decision takes effect; and
- (b) on appeal—
  - (i) if the decision is reversed by the Tribunal, subject to section 92(1) of this Schedule—  
from the date on which the application for the stay of execution of the decision is granted until the expiry of the transitional period;



- (ii) if the decision is confirmed by the Tribunal—  
from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the determination of the Tribunal takes effect; or
- (iii) if the appeal is withdrawn—from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the appeal is withdrawn.

**84. Stay of execution granted before decision takes effect**

If the individual applies for a stay of execution of the decision before the decision takes effect and the application is granted, then despite section 78 of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 92(1) of this Schedule—from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the expiry of the date on which the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the expiry of the date on which the appeal is withdrawn.

**Subdivision 3—Stay of Execution Granted before Commencement Date****85. Application of section 86 of this Schedule**

Section 86 of this Schedule applies if—

- (a) an individual was registered with IARB as a responsible officer of an insurance agency registered with IARB before the commencement date;
- (b) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U;
- (c) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (d) the individual has appealed against the decision and applied for stay of execution of the decision and the application was granted before the commencement date; and
- (e) the appeal is not finally disposed of on the commencement date.

**86. Stay of execution granted before commencement date and appeal not disposed of on commencement date**

Despite section 78 of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 92(1) of this Schedule—

- from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the expiry of the date on which the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the expiry of the date on which the appeal is withdrawn.

#### **Subdivision 4—Decision of Revocation Taken Effect on or before Commencement Date**

#### **87. Application of sections 88 and 89 of this Schedule**

Sections 88 and 89 of this Schedule apply if—

- (a) an individual was registered with IARB as a responsible officer of an insurance agency registered with IARB before the commencement date;
- (b) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U;
- (c) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (d) the decision has taken effect on or before the commencement date;
- (e) the individual appeals against the decision before, on or after the commencement date; and

- (f) (if the individual has appealed against the decision before the commencement date) the appeal is not finally disposed of on the commencement date.

#### **88. No application for stay of execution or application for stay of execution rejected**

If—

- (a) the individual does not apply for a stay of execution of the decision or the individual makes such an application but the application is rejected; and
- (b) the decision is reversed by the Tribunal on appeal,

then despite section 78 of this Schedule and subject to section 92(1) of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

#### **89. Stay of execution granted after commencement date**

If the individual applies for a stay of execution of the decision and the application is granted after the commencement date, then despite section 78 of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 92(1) of this Schedule—from the date on which the application for the stay of execution of the decision is granted until the expiry of the transitional period;

- (b) if the decision is confirmed by the Tribunal on appeal—from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the date on which the application for the stay of execution of the decision is granted until the expiry of the date on which the appeal is withdrawn.

#### **Subdivision 5—Application for Registration Rejected before Commencement Date**

##### **90. Applications for registration rejected**

If—

- (a) an individual applied to IARB for registration as a responsible officer of an insurance agency registered with IARB but IARB has, before the commencement date, made a decision that the application be rejected;
- (b) the individual appeals against the decision;
- (c) the decision is reversed by the Tribunal on appeal; and
- (d) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U,

subject to section 92(1) of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.

#### **Subdivision 6—Supplementary Provisions**

##### **91. Appeals not disposed of on expiry of transitional period**

In relation to sections 83, 84, 86 and 89 of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency until the expiry of that date.

##### **92. Appeals to Court of Appeal**

- (1) In relation to sections 82(b), 83(b)(i), 84(a), 86(a), 88, 89(a) and 90 of this Schedule, if—
  - (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and
  - (b) the Court of Appeal reverses the determination, the approval regarded as having been granted under section 64ZE is to remain in force until the expiry of the date on which the decision of the Court of Appeal takes effect.
- (2) In relation to sections 83(b)(ii), 84(b), 86(b) and 89(b) of this Schedule, if—
  - (a) the individual appeals to the Court of Appeal against the determination of the Tribunal; and
  - (b) the Court of Appeal reverses the determination, the individual is also to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency from the date on which the decision of the Court of Appeal takes effect until the expiry of the transitional period.

**93. Effect of application for approval under section 64ZE**

- (1) This section applies to an individual who is regarded as having been granted an approval under section 64ZE as a responsible officer of an insurance agency that is regarded as having been granted a licence under section 64U.
- (2) If the agency makes an application for the approval of the individual as a responsible officer of the agency under section 64ZE in the manner, and within the time, specified by the Authority, the approval regarded as having been granted under that section is to remain in force until the specified date.

**94. Conditions imposed by IARB**

A condition imposed by IARB in relation to the registration of an individual as a responsible officer of an insurance agency that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to IARB) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the approval that is regarded as having been granted under section 64ZE to the individual.

**95. Requirements to comply with conditions**

An individual who is regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency must, during the period when the approval is in force, comply with any condition under sections 94 and 106 of this Schedule.

**96. Application of provisions relating to responsible officers of licensed insurance agencies**

A provision in this Ordinance relating to a responsible officer of a licensed insurance agency applies to an individual who is regarded under this Division as having been granted an approval under section 64ZE.

**Division 8—Savings and Transitional Arrangements  
for Chief Executives Registered with Approved  
Broker Bodies**

**Subdivision 1—General Provision**

**97. Chief executives registered with approved broker bodies**

If—

- (a) an individual was, immediately before the commencement date, registered with an approved broker body as a chief executive of a company that is a member of the body; and
- (b) the company is regarded under section 62 of this Schedule as having been granted a licence under section 64ZA,

the individual is to be regarded as having been granted an approval under section 64ZF as a responsible officer of the company and as being so approved from the commencement date until the expiry of the transitional period.

**Subdivision 2—Decision of Revocation not yet Taken  
Effect immediately before Commencement Date**

**98. Individual whose registration as chief executive being revoked**

- (1) Despite section 97 of this Schedule, if—
- (a) an individual was registered with an approved broker body as a chief executive of a company that is a member of the body before the commencement date;
  - (b) the company is regarded under section 62 of this Schedule as having been granted a licence under section 64ZA;
  - (c) the approved broker body with which the individual was registered has, before the commencement date, made a decision that the individual's registration with the body as a chief executive be revoked; and
  - (d) the decision has not taken effect immediately before the commencement date,

subject to section 100(1) of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZF as a responsible officer of the company and as being so approved from the commencement date until the expiry of the date specified in subsection (2).

- (2) The date specified for subsection (1) is—
- (a) if the individual does not appeal against the decision, the date on which the decision takes effect; or
  - (b) if the individual appeals against the decision and—

- (i) if the decision is reversed by the Tribunal on appeal, subject to section 100(1) of this Schedule, the date on which the transitional period expires;
- (ii) if the decision is confirmed by the Tribunal on appeal, the date on which the determination of the Tribunal takes effect; or
- (iii) if the appeal is withdrawn, the date on which the appeal is withdrawn.

**Subdivision 3—Supplementary Provisions**

**99. Appeals not disposed of on expiry of transitional period**

In relation to section 98(1) and (2)(b) of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the individual is to be regarded as having been granted an approval under section 64ZF as a responsible officer of the company until the expiry of that date.

**100. Appeals to Court of Appeal**

- (1) In relation to section 98(1) and (2)(b)(i) of this Schedule, if—
- (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and
  - (b) the Court of Appeal reverses the determination, the approval regarded as having been granted under section 64ZF is to remain in force until the expiry of the date on which the decision of the Court of Appeal takes effect.
- (2) In relation to section 98(1) and (2)(b)(ii) of this Schedule, if—

- (a) the individual appeals to the Court of Appeal against the determination of the Tribunal; and
  - (b) the Court of Appeal reverses the determination,
- the individual is also to be regarded as having been granted an approval under section 64ZF as a responsible officer of the company from the date on which the decision of the Court of Appeal takes effect until the expiry of the transitional period.

**101. Effect of application for approval under section 64ZF**

- (1) This section applies to an individual who is regarded as having been granted an approval under section 64ZF as a responsible officer of a company that is regarded as having been granted a licence under section 64ZA.
- (2) If the company makes an application for the approval of the individual as a responsible officer of the company under section 64ZF in the manner, and within the time, specified by the Authority, the approval regarded as having been granted under that section is to remain in force until the specified date.

**102. Conditions imposed by approved broker body**

A condition imposed by an approved broker body in relation to the registration of an individual as a chief executive that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to the approved broker body) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the approval that is regarded as having been granted under section 64ZF to the individual.

**103. Requirements to comply with conditions**

An individual who is regarded as having been granted an approval under section 64ZF as a responsible officer of the company must, during the period when the approval is in force, comply with any condition under sections 102 and 106 of this Schedule.

**104. Application of provisions relating to responsible officers of licensed insurance broker companies**

A provision in this Ordinance relating to a responsible officer of a licensed insurance broker company applies to an individual who is regarded under this Division as having been granted an approval under section 64ZF.

**Division 9—Miscellaneous****105. Authority may revoke or suspend licences and approval regarded as granted**

- (1) If the Authority has reasonable ground to believe that any application information was, at the time when it was provided by the person, wrong, incomplete, false or misleading in a material respect, the Authority may, at any time during the transitional period, by notice in writing, revoke or suspend a licence or an approval that is regarded as having been granted to a person under Division 2, 3, 4, 5, 6, 7 or 8 of this Part.
- (2) The Authority may, at any time during the transitional period, by notice in writing, revoke or suspend a licence or an approval that is regarded as having been granted to a person under Division 2, 3, 4, 5, 6, 7 or 8 of this Part if the Authority has reasonable ground to believe that—

- (a) for a person who is regarded under Division 2 of this Part as having been granted a licence under section 64U—the person fails to comply with section 22 of this Schedule;
  - (b) for a person who is regarded under Division 3 of this Part as having been granted a licence under section 64W—the person fails to comply with section 41 of this Schedule;
  - (c) for a person who is regarded under Division 4 of this Part as having been granted a licence under section 64Y—the person fails to comply with section 60 of this Schedule;
  - (d) for a person who is regarded under Division 5 of this Part as having been granted a licence under section 64ZA—the person fails to comply with section 68 of this Schedule;
  - (e) for a person who is regarded under Division 6 of this Part as having been granted a licence under section 64ZC—the person fails to comply with section 76 of this Schedule;
  - (f) for a person who is regarded under Division 7 of this Part as having been granted an approval under section 64ZE—the person fails to comply with section 95 of this Schedule;
  - (g) for a person who is regarded under Division 8 of this Part as having been granted an approval under section 64ZF—the person fails to comply with section 103 of this Schedule.
- (3) The power under subsection (1) or (2) is not exercisable unless, before exercising the power, the Authority—

- (a) has given the person a notice in writing of its intention to do so and the reasons for doing so; and
  - (b) has given the person an opportunity to make written representations or oral representations on those reasons.
- (4) A notice under subsection (3)(a) must also include a statement describing—
- (a) the right of the person to make representations; and
  - (b) how and when the person may make representations.
- (5) In this section—

**application information** (申請資料) means information provided by a person to an entity specified in column 2 of the Table in relation to an application for the registration or approval of the person as the type of person specified in column 3 of the Table opposite the entity.

Table

Column 1	Column 2	Column 3
Item	Entity	Application for registration or approval as the following types of person
1.	IARB	An insurance agency
2.	IARB	An individual agent
3.	IARB	A technical representative
4.	IARB	A responsible officer
5.	Approved	An insurance broker

Column 1	Column 2	Column 3
Item	Entity	Application for registration or approval as the following types of person
	broker body	
6.	Approved broker body	A technical representative
7.	Approved broker body	A chief executive

**106. Licences and approval regarded as granted are subject to conditions imposed by Authority**

- (1) A licence or an approval that is regarded as having been granted to a person under Division 2, 3, 4, 5, 6, 7 or 8 of this Part is subject to any condition that the Authority imposes.
- (2) The Authority may, at any time during the transitional period, by notice in writing, amend or revoke any condition imposed, or impose new conditions.
- (3) If the Authority by notice in writing amends or revokes a condition or imposes a new condition under subsection (2), the amendment, revocation or imposition takes effect at the time the notice is served on the person or at the time specified in the notice, whichever is the later.
- (4) The Authority must not impose a condition under subsection (1), or amend such a condition under subsection (2), without giving the person an opportunity

to make representations as to why the condition should not be imposed or amended.

- (5) In this section, a reference to an opportunity to make representations is a reference to an opportunity to make written representations or oral representations.

## Part 5

### Complaints that have been Lodged or could have been Lodged before Commencement Date

#### 107. Interpretation of Part 5 of this Schedule

In this Part—

*self-regulatory body* (自我規管團體)—

- (a) in relation to a complaint that has been lodged, or could have been lodged, with IARB before the commencement date—means IARB; and
- (b) in relation to a complaint that has been lodged, or could have been lodged, with an approved broker body before the commencement date—means the body;

*specified person* (指明人士) means—

- (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; or



- (g) a chief executive registered with an approved broker body.

#### **108. Complaints not yet disposed of by self-regulatory bodies**

- (1) This section applies if a complaint in relation to a specified person has been lodged with a self-regulatory body but has not been disposed of on the commencement date.
- (2) On or after the commencement date—
  - (a) the Authority is to handle the complaint as if it was a complaint lodged with the Authority under section 109 of this Schedule; and
  - (b) the self-regulatory body is to cease to have power to handle the complaint.

#### **109. Complaints not lodged with self-regulatory bodies before commencement date**

- (1) This section applies if—
  - (a) a complaint concerns an act or omission that—
    - (i) relates to a specified person; and
    - (ii) occurred before the commencement date;
  - (b) the complaint could have been lodged with a self-regulatory body under the applicable rule that would have applied to the specified person and the matter in question but for this section; and
  - (c) no complaint has been lodged in relation to the specified person with a self-regulatory body immediately before the commencement date in relation to the matter in question.
- (2) On or after the commencement date, the complaint may only be lodged with the Authority.

#### **110. Determination of complaints under sections 108 and 109 of this Schedule**

- (1) A complaint in relation to a specified person mentioned in section 108 or 109 of this Schedule must be handled by the Authority by reference to the applicable rule that would have applied to the specified person and the matter in question had the complaint been lodged with the self-regulatory body concerned.
- (2) The Authority may—
  - (a) direct that an investigation under section 64ZZH be conducted;
  - (b) dismiss the complaint; or
  - (c) take any other action that is permitted under the applicable rule.
- (3) The Authority may take a disciplinary action, or impose a penalty or sanction, that could have been made by the self-regulatory body concerned had the complaint been dealt with by the body.

### **Part 6**

#### **Investigations that were not Completed before Commencement Date**

#### **111. Interpretation of Part 6 of this Schedule**

In this Part—

*self-regulatory body* (自我規管團體)—

- (a) in relation to an investigation that was conducted by IARB before the commencement date—means IARB; and

- (b) in relation to an investigation that was conducted by an approved broker body before the commencement date—means the body;

*specified person* (指明人士) means—

- (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; or
- (g) a chief executive registered with an approved broker body.

#### 112. Investigations not yet completed by self-regulatory bodies

- (1) This section applies if an investigation in relation to a specified person has been conducted by a self-regulatory body but has not been completed on the commencement date.
- (2) On or after the commencement date—
  - (a) the Authority is to conduct the investigation under section 64ZZH; and
  - (b) the self-regulatory body is to cease to have power to conduct the investigation.

#### 113. Investigations under section 112 of this Schedule

After the investigation is completed, the Authority may take a disciplinary action, or impose a penalty or sanction, that could

have been made by the self-regulatory body concerned had the investigation been conducted by the body.

## Part 7

### Appeals that have been Made or could have been Made before Commencement Date

#### 114. Interpretation of Part 7 of this Schedule

In this Part—

*self-regulatory body* (自我規管團體)—

- (a) in relation to an appeal that has been made, or could have been made, to the Appeals Tribunal established by HKFI before the commencement date—means the Appeals Tribunal; and
- (b) in relation to an appeal that has been made, or could have been made, to an approved broker body before the commencement date—means the body;

*specified person* (指明人士) means—

- (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; or
- (g) a chief executive registered with an approved broker body.

**115. Appeals not yet determined by self-regulatory bodies**

- (1) This section applies if an appeal in relation to a specified person (including application for leave to appeal) has been made to a self-regulatory body but has not been finally disposed of on the commencement date.
- (2) On or after the commencement date—
  - (a) the Tribunal is to handle the appeal as if it was an appeal made to the Tribunal under section 116 of this Schedule; and
  - (b) the self-regulatory body is to cease to have power to handle the appeal.

**116. Appeals not made to self-regulatory bodies before commencement date**

- (1) This section applies if—
  - (a) a decision was made by a self-regulatory body before the commencement date in relation to a specified person;
  - (b) an appeal against the decision could have been made to a self-regulatory body under the applicable rule that would have applied to the specified person and the matter in question but for this section;
  - (c) the period within which the appeal could be made has not expired under the applicable rule; and
  - (d) no appeal has been made to a self-regulatory body immediately before the commencement date in relation to the matter in question.
- (2) On or after the commencement date, the appeal may only be made to the Tribunal.

**117. Determination of appeals under sections 115 and 116 of this Schedule**

- (1) An appeal mentioned in section 115 or 116 of this Schedule must be determined by the Tribunal by reference to the applicable rule that would have applied to the specified person and the matter in question had the application for the appeal been made to the self-regulatory body concerned.
- (2) Part XII applies as if—
  - (a) a reference to a review in that Part was a reference to an appeal mentioned in section 115 or 116 of this Schedule; and
  - (b) a reference to a party to the review included the Authority.
- (3) However, the Tribunal must not determine the appeal by remitting the matter in question to the self-regulatory body.

**Part 8****Effect of Disciplinary Sanctions Imposed before Commencement Date****118. Interpretation of Part 8 of this Schedule**

In this Part—

*self-regulatory body* (自我規管團體)—

- (a) in relation to a sanction imposed on a person before the commencement date by IARB—means IARB; and

- (b) in relation to a sanction imposed on a person before the commencement date by an approved broker body—means the body.

**119. Effect of disciplinary sanctions imposed by self-regulatory bodies**

- (1) If a self-regulatory body imposed a disciplinary sanction on a person before the commencement date—
  - (a) on the commencement date, the sanction is to be regarded as a disciplinary action taken by the Authority under section 80; and
  - (b) subject to sections 115 and 116 of this Schedule, the sanction continues to take effect until the expiry of the period, or the occurrence of the event, specified by the self-regulatory body.
- (2) If a self-regulatory body imposed a fine on a person before the commencement date and the fine or part of the fine was not paid, that fine or that part of it may be recovered by the self-regulatory body as a civil debt on or after the commencement date.

## 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)."

**Part 3****Related and Consequential Amendments****Division 1—Amendment to Specification of Public Offices  
(Cap. 1 sub. leg. C)****95. Schedule amended**

The Schedule—

Repeal the entry relating to the Insurance Authority.

**Division 2—Amendment to Companies (Winding Up and  
Miscellaneous Provisions) Ordinance (Cap. 32)****96. Section 265 amended (preferential payments)**Section 265(6), definition of *general business*—**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**Division 3—Amendment to Legal Aid Ordinance (Cap. 91)****97. Schedule 3 amended (proceedings for which legal aid may be  
given under section 5A)**

Schedule 3, Part 1, paragraph 6(a)—

**Repeal**

“an insurer, appointed insurance agent or authorized insurance broker, as defined by section 2 of the Insurance Companies Ordinance (Cap. 41)”

**Substitute**

“an insurer which is authorized within the meaning of the Insurance Ordinance (Cap. 41) or a licensed insurance intermediary as defined by section 2(1) of that Ordinance”.

### **Division 4—Amendment to Telecommunications Ordinance (Cap. 106)**

**98. Section 13J amended (temporary restriction on disposal or acquisition)**

Section 13J(4)(b)(ii)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

### **Division 5—Amendments to Inland Revenue Ordinance (Cap. 112)**

**99. Section 23 amended (ascertainment of assessable profits of life insurance corporations)**

(1) Section 23(2)—

**Repeal**

“submitted to the Insurance Authority under section 18 of the Insurance Companies Ordinance”

**Substitute**

“submitted to the Insurance Authority under section 18 of the Insurance Ordinance”.

(2) Section 23(9), definition of *life insurance business*—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**100. Section 23A amended (ascertainment of assessable profits of insurance corporations other than life insurance corporations)**

(1) Section 23A(3), definition of *additional amount for unexpired risks, claims outstanding, fund and unearned premiums*—

**Repeal**

“the Third Schedule to the Insurance Companies Ordinance”

**Substitute**

“Schedule 3 to the Insurance Ordinance”.

(2) Section 23A(3), definition of *authorized captive insurer*, paragraph (a)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

(3) Section 23A(3), definition of *professional reinsurer*—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.



**Division 6—Amendment to Banking Ordinance (Cap. 155)****101. Section 120 amended (official secrecy)**

Section 120(5A)—

**Repeal paragraph (a)****Substitute**

“(a) the Insurance Authority established under section 4AAA of the Insurance Ordinance (Cap. 41);”.

**Division 7—Amendment to Banking (Capital) Rules (Cap. 155 sub. leg. L)****102. Section 2 amended (interpretation)**Section 2(1), definition of *insurance firm*, paragraph (b)—**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**Division 8—Amendments to Money Lenders Ordinance (Cap. 163)****103. Schedule 1 amended**

(1) Schedule 1, Part 1, paragraph 5—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

(2) Schedule 1, English text, Part 1, paragraph 5—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

**Division 9—Amendment to Prevention of Bribery Ordinance (Cap. 201)****104. Schedule 1 amended (public bodies)**

At the end of Schedule 1—

**Add**

“125. Insurance Authority.

126. Any wholly-owned subsidiary of the Insurance Authority established under section 4B(2)(g) of the Insurance Ordinance (Cap. 41).”.

**Division 10—Amendments to Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272)****105. Section 2 amended (interpretation)**(1) Section 2, definition of *authorized insurer*, paragraph (a)(i)—**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

(2) Section 2, definition of *authorized insurer*, paragraph (a)(ii)—**Repeal**

“by the Insurance Authority on or after 1 July 1994”

**Substitute**

“by the Insurance Authority”.

- (3) Section 2, definition of *motor vehicle insurance business*—

**Repeal**

“the First Schedule to the Insurance Companies Ordinance”

**Substitute**

“Schedule 1 to the Insurance Ordinance”.

**Division 11—Amendment to Motor Vehicles Insurance  
(Third Party Risks) Ordinance (Nomination of Authority)  
Notice (Cap. 272 sub. leg. B)**

**106. Paragraph 2 amended (nomination of Authority)**

Paragraph 2—

**Repeal**

“Commissioner of Insurance”

**Substitute**

“Insurance Authority”.

**Division 12—Amendments to Employees’ Compensation  
Ordinance (Cap. 282)**

**107. Section 3 amended (interpretation)**

- (1) Section 3(1), definition of *insurance company* and *insurer*, paragraph (a)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

- (2) Section 3(1), English text, definition of *insurance company* and *insurer*, paragraph (a)—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

- (3) Section 3(1), definition of *insurance company* and *insurer*, paragraph (b)—

**Repeal**

“by the Insurance Authority on or after 1 July 1994”

**Substitute**

“by the Insurance Authority”.

**Division 13—Amendments to Rehabilitation of Offenders  
Ordinance (Cap. 297)**

**108. Section 4 amended (further exceptions)**

- (1) Section 4(1)—

**Repeal paragraph (e)****Substitute**

- “(e) proceedings under the Insurance Ordinance (Cap. 41)—
- (i) relating to a person’s suitability to be authorized as an authorized insurer;
  - (ii) by the Insurance Authority in the exercise of the powers conferred on the Authority by sections 27, 28, 29, 30, 31, 32, 33, 34, 35, 41P and 80 and Part X of that Ordinance; or

- (iii) relating to a person's suitability to become or continue to be a director or controller of an authorized insurer;".

(2) Section 4(2)—

**Repeal paragraph (d)**

**Substitute**

- "(d) to be authorized as an authorized insurer under the Insurance Ordinance (Cap. 41), to be granted a licence as a licensed insurance broker or a licensed insurance agent within the meaning of that Ordinance, or to be approved as a responsible officer of a licensed insurance broker company or a licensed insurance agency within the meaning of that Ordinance; or".

(3) Section 4(2)(h)—

**Repeal**

"Insurance Companies Ordinance"

**Substitute**

"Insurance Ordinance".

**109. Schedule amended (prescribed offices)**

(1) The Schedule, Part 1—

**Repeal item 12.**

(2) The Schedule, Part 2, after item 1—

**Add**

- "2. Any office occupied by the executive, professional, managerial, technical, inspectorate or secretarial staff of the Insurance Authority.".

**Division 14—Amendments to Building Management Ordinance (Cap. 344)**

**110. Section 28 amended (matters regarding insurance)**

(1) Section 28(7)—

**Repeal paragraph (a)**

**Substitute**

- "(a) means an insurer authorized under section 8 of the Insurance Ordinance (Cap. 41) (*Cap. 41*), or deemed to be so authorized under section 61(1) or (2) of Cap. 41 as in force immediately before the commencement date of section 10 of the Insurance Companies (Amendment) Ordinance 2014 ( of 2014) having continuing effect by the operation of section 2(7) of Schedule 11 to Cap. 41, to carry on insurance business;".

(2) Section 28(7)(c), Chinese text—

**Repeal**

"保險業監督"

**Substitute**

"保險業監管局".

**Division 15—Amendment to Trade Descriptions Ordinance (Cap. 362)**

**111. Schedule 4 amended (excluded products)**

Schedule 4, item 1—

**Repeal**

"Insurance Companies Ordinance"

**Substitute**

“Insurance Ordinance”.

**Division 16—Amendment to Employees Compensation Assistance Ordinance (Cap. 365)**

**112. Section 2 amended (interpretation)**

Section 2(1)—

Repeal the definition of *Insurance Authority*.

**Division 17—Amendment to The Ombudsman Ordinance (Cap. 397)**

**113. Schedule 1 amended (organizations to which this Ordinance applies)**

Schedule 1, Part 1—

Add in alphabetical order

“Insurance Authority.”.

**Division 18—Amendments to Occupational Retirement Schemes Ordinance (Cap. 426)**

**114. Section 2 amended (interpretation)**

- (1) Section 2(1), definition of *authorized insurer*—

Repeal

“Insurance Companies Ordinance”

Substitute

“Insurance Ordinance”.

- (2) Section 2(1), definition of *authorized insurer*—

Repeal

“and who is authorized under section 8 of that Ordinance, or is deemed under section 61(1) or (2) of that Ordinance to be so authorized”

Substitute

“(Cap. 41) and who is authorized under section 8 of Cap. 41, or deemed to be so authorized under section 61(1) or (2) of Cap. 41 as in force immediately before the commencement date of section 10 of the Insurance Companies (Amendment) Ordinance 2014 ( of 2014) having continuing effect by the operation of section 2(7) of Schedule 11 to Cap. 41”.

**Division 19—Amendment to Occupational Retirement Schemes (Insurance Arrangement) Rules (Cap. 426 sub. leg. E)**

**115. Section 3 amended (insurance arrangement)**

Section 3(c)—

Repeal

“the First Schedule to the Insurance Companies Ordinance”

Substitute

“Schedule 1 to the Insurance Ordinance”.

**Division 20—Amendments to Mandatory Provident Fund Schemes Ordinance (Cap. 485)**

**116. Section 6H amended (Authority may issue guidelines)**

Section 6H(8), Chinese text—

Repeal

“保險業監督”

Substitute

“保險業監管局”。

# 117. Section 34E amended (interpretation)

- (1) Section 34E, definition of *prescribed person*—

## Repeal paragraph (a)

### Substitute

“(a) in relation to the Insurance Authority, means an employee of the Insurance Authority;”.

- (2) Section 34E, definition of *Type A regulatee*—

## Repeal paragraph (a)

### Substitute

“(a) in relation to the Insurance Authority, means—

- (i) a company that is authorized under section 8 of the Insurance Ordinance (Cap. 41) to carry on long term business within the meaning of that Ordinance; or

- (ii) a licensed long term insurance broker company;”.

- (3) Section 34E, definition of *Type B regulatee*—

## Repeal paragraph (a)

### Substitute

“(a) in relation to the Insurance Authority, means—

- (i) a licensed long term individual insurance agent;
- (ii) a licensed long term insurance agency; or
- (iii) a licensed long term technical representative;”.

- (4) Section 34E, Chinese text, definition of 行業監督, paragraph (a)—

## Repeal

“保險業監督”

## Substitute

“保險業監管局”。

- (5) Section 34E, Chinese text, definition of 調查員, paragraph (b)(ii)—

## Repeal the semicolon

### Substitute a full stop.

- (6) Section 34E—

- (a) definition of *appointed long term insurance agent*;
- (b) definition of *authorized long term insurance broker*;
- (c) definition of *relevant insurance broker body*—

## Repeal the definitions.

- (7) Section 34E—

## Add in alphabetical order

*“licensed long term individual insurance agent* (持牌長期業務個人保險代理) means a licensed individual insurance agent as defined by section 2(1) of the Insurance Ordinance (Cap. 41) who is eligible to engage in long term business within the meaning of that Ordinance;

*licensed long term insurance agency* (持牌長期業務保險代理機構) means a licensed insurance agency as defined by section 2(1) of the Insurance Ordinance (Cap. 41) who is eligible to engage in long term business within the meaning of that Ordinance;

*licensed long term insurance broker company* (持牌長期業務保險經紀公司) means a licensed insurance broker company as defined by section 2(1) of the Insurance Ordinance (Cap. 41) who is eligible to engage in long term business within the meaning of that Ordinance;

*licensed long term technical representative* (持牌長期業務代表) means—

- (a) a licensed technical representative (agent) as defined by section 2(1) of the Insurance Ordinance (Cap. 41) who is appointed as an agent by a licensed long term insurance agency; or
- (b) a licensed technical representative (broker) as defined by section 2(1) of the Insurance Ordinance (Cap. 41) who is appointed as an agent by a licensed long term insurance broker company;”.

**118. Section 34J amended (revocation or suspension of qualification as Type A regulatee)**

(1) Section 34J(1)—

**Repeal paragraphs (a) and (b)**

**Substitute**

- “(a) in the case of the qualification mentioned in paragraph (a)(i) of the definition of *Type A regulatee* in section 34E as a company authorized to carry on long term business under the Insurance Ordinance (Cap. 41), the authorization granted under section 8 of that Ordinance is revoked under section 41P(2)(a) of that Ordinance in relation to long term business;
- (b) in the case of the qualification mentioned in paragraph (a)(ii) of that definition as a licensed long term insurance broker company, the licence granted under section 64ZA of the Insurance Ordinance (Cap. 41) is revoked under section 80(4)(a)(i) of that Ordinance in relation to long term business;”.

(2) Section 34J(2)—

**Repeal paragraph (a)**

**Substitute**

- “(a) in the case of the qualification mentioned in paragraph (a)(i) of the definition of *Type A regulatee* in section 34E as a company authorized to carry on long term business under the Insurance Ordinance (Cap. 41), the authorization granted under section 8 of that Ordinance is suspended under section 41P(2)(b) of that Ordinance in relation to long term business;
- (ab) in the case of the qualification mentioned in paragraph (a)(ii) of that definition as a licensed long term insurance broker company, the licence granted under section 64ZA of the Insurance Ordinance (Cap. 41) is suspended under section 80(4)(a)(ii) of that Ordinance in relation to long term business;”.

**119. Section 34K amended (revocation or suspension of qualification as Type B regulatee)**

(1) Section 34K(1)—

**Repeal paragraphs (a), (b), (c) and (d)**

**Substitute**

- “(a) in the case of the qualification mentioned in paragraph (a)(i) of the definition of *Type B regulatee* in section 34E as a licensed long term individual insurance agent, the licence granted under section 64W of the Insurance Ordinance (Cap. 41) is revoked under section 80(4)(a)(i) of that Ordinance in relation to long term business;
- (b) in the case of the qualification mentioned in paragraph (a)(ii) of that definition as a licensed long term insurance agency, the licence granted under section 64U of the Insurance Ordinance (Cap. 41) is revoked under section 80(4)(a)(i) of that Ordinance in relation to long term business;

- (c) in the case of the qualification mentioned in paragraph (a)(iii) of that definition as a licensed long term technical representative, the licence granted under section 64Y or 64ZC of the Insurance Ordinance (Cap. 41) is revoked under section 80(4)(a)(i) of that Ordinance in relation to long term business;”

(2) Section 34K(2)—

**Repeal paragraphs (a), (b) and (c)**

**Substitute**

- “(a) in the case of the qualification mentioned in paragraph (a)(i) of the definition of *Type B regulatee* in section 34E as a licensed long term individual insurance agent, the licence granted under section 64W of the Insurance Ordinance (Cap. 41) is suspended under section 80(4)(a)(ii) of that Ordinance in relation to long term business;
- (b) in the case of the qualification mentioned in paragraph (a)(ii) of that definition as a licensed long term insurance agency, the licence granted under section 64U of the Insurance Ordinance (Cap. 41) is suspended under section 80(4)(a)(ii) of that Ordinance in relation to long term business;
- (c) in the case of the qualification mentioned in paragraph (a)(iii) of that definition as a licensed long term technical representative, the licence granted under section 64Y or 64ZC of the Insurance Ordinance (Cap. 41) is suspended under section 80(4)(a)(ii) of that Ordinance in relation to long term business;”

**120. Section 34Z amended (assignment of frontline regulator for principal intermediary)**

Section 34Z(6), Chinese text—

**Repeal**

“保險業監督” (wherever appearing)

**Substitute**

“保險業監管局”.

**121. Section 34ZZB amended (inspection and investigation powers in relation to certain entity)**

(1) Section 34ZZB(3)(c)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

(2) Section 34ZZB(3)—

**Repeal paragraphs (d) and (e)**

**Substitute**

- “(d) a licensed insurance agency as defined by section 2(1) of the Insurance Ordinance (Cap. 41); or
- (e) a licensed insurance broker company as defined by section 2(1) of the Insurance Ordinance (Cap. 41).”

(3) Section 34ZZB(4), Chinese text, definition of 有關主管當局, paragraph (c)—

**Repeal**

“保險業監督” (wherever appearing)

**Substitute**

“保險業監管局”.

**122. Section 42 amended (Authority may disclose certain information despite section 41)**

Section 42(1)(d), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保險業監管局”.

**123. Section 42AA amended (Authority or specified entity may disclose information obtained under Part 4A despite section 41)**

Section 42AA(5)(a), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保險業監管局”.

**124. Section 42B amended (immunity)**

Section 42B(3)(a), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保險業監管局”.

**Division 21—Amendments to Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A)**

**125. Section 2 amended (interpretation)**

(1) Section 2, definition of *authorized insurer*—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

(2) Section 2—

**Repeal the definition of *Insurance Authority***

**Substitute**

“*Insurance Authority* (保險業監管局) means the Insurance Authority established under section 4AAA of the Insurance Ordinance (Cap. 41);”.

**126. Section 7 amended (what is a substantial financial institution for the purposes of this Regulation?)**

Section 7(3)(b), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保險業監管局”.

**127. Section 8 amended (what is adequate insurance for the purposes of registered schemes?)**

(1) Section 8(2)(a)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

(2) Section 8(3)(b), Chinese text—

**Repeal**

“保險業監督”



**Substitute**

“保險業監管局”.

**128. Schedule 1 amended (investment of scheme funds)**

Schedule 1, section 19(1)(a)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**Division 22—Amendment to Personal Data (Privacy)  
Ordinance (Cap. 486)****129. Section 2 amended (interpretation)**Section 2(1), definition of *financial regulator*—**Repeal paragraph (f)****Substitute**

“(f) the Insurance Authority established under section 4AAA of the Insurance Ordinance (Cap. 41);”.

**Division 23—Amendment to Legislative Council Ordinance  
(Cap. 542)****130. Section 20C amended (composition of the insurance functional constituency)**

Section 20C—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**Division 24—Amendments to Merchant Shipping (Local  
Vessels) Ordinance (Cap. 548)****131. Section 2 amended (interpretation)**

- (1) Section 2, definition of
- authorized insurer*
- , paragraph (a)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

- (2) Section 2, English text, definition of
- authorized insurer*
- , paragraph (a)—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

- (3) Section 2, English text, definition of
- authorized insurer*
- , paragraph (b)—

**Repeal**

“the First Schedule”

**Substitute**

“Schedule 1”.

- (4) Section 2, Chinese text, definition of 獲授權保險人, paragraph (b)—

**Repeal**

“保險業監督”

**Substitute**

“保監局”。

(5) Section 2—

**Repeal the definition of *Insurance Authority***

**Substitute**

“*Insurance Authority* (保監局) means the Insurance Authority established under section 4AAA of the Insurance Ordinance (Cap. 41);”.

**Division 25—Amendments to Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation (Cap. 548 sub. leg. H)**

**132. Section 5 amended (approval)**

(1) Section 5(3), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”。

(2) Section 5(5)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**133. Section 8 amended (suspension or revocation of approval)**

Section 8(4), Chinese text—

**Repeal**

“給予保險業監督”

**Substitute**

“，給予保監局”。

**Division 26—Amendments to Securities and Futures Ordinance (Cap. 571)**

**134. Section 129 amended (determination of *fit and proper*)**

Section 129(2)(a)(ii), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”。

**135. Section 179 amended (power to require production of records and documents concerning listed corporations, etc.)**

(1) Section 179(10)(b)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

(2) Section 179(10)(b), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”。

**136. Section 180 amended (supervision of intermediaries and their associated entities)**

(1) Section 180(10)(b)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

- (2) Section 180(10)(b), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”.

**137. Section 308 amended (interpretation of Part XV)**Section 308(1), definition of *qualified lender*, paragraph (b)—**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**138. Section 378 amended (preservation of secrecy, etc.)**

- (1) Section 378(2)(f)(ii), Chinese text—

**Repeal**

“向保險業監督”

**Substitute**

“，向保監局”.

- (2) Section 378(3)(f)(v), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”.

**139. Section 381 amended (immunity in respect of communication with Commission by auditors of listed corporations, etc.)**

- (1) Section 381(4)(a)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

- (2) Section 381(4)(a), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”.

**140. Schedule 1 amended (interpretation and general provisions)**

- (1) Schedule 1, Part 1, section 1—

**Repeal the definition of *Insurance Authority*****Substitute**“*Insurance Authority* (保監局) means the Insurance Authority established under section 4AAA of the Insurance Ordinance (Cap. 41);”.

- (2) Schedule 1, Part 1, section 1, definition of
- insurer*
- 

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

- (3) Schedule 1, Part 1, section 1, definition of *professional investor*, paragraph (d)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

- (4) Schedule 1, Part 1, section 1, definition of *securities*, paragraph (ii)(C)—

**Repeal**

“the First Schedule to the Insurance Companies Ordinance”

**Substitute**

“Schedule 1 to the Insurance Ordinance”.

- (5) Schedule 1, Part 1, section 1A(2)(i)—

**Repeal**

“the First Schedule to the Insurance Companies Ordinance”

**Substitute**

“Schedule 1 to the Insurance Ordinance”.

**141. Schedule 5 amended (regulated activities)**

Schedule 5, Part 2, definition of *leveraged foreign exchange trading*, paragraph (v)—

**Repeal**

“Insurance Companies Ordinance (Cap. 41) to carry on insurance business or deemed to be so authorized under section 61(1) or (2) of that Ordinance”

**Substitute**

“Insurance Ordinance (Cap. 41) (*Cap. 41*) to carry on insurance business, or deemed to be so authorized under

section 61(1) or (2) of Cap. 41 as in force immediately before the commencement date of section 10 of the Insurance Companies (Amendment) Ordinance 2014 ( of 2014) having continuing effect by the operation of section 2(7) of Schedule 11 to Cap. 41”.

**Division 27—Amendment to Securities and Futures  
(Investor Compensation—Claims) Rules (Cap. 571 sub. leg.  
T)**

**142. Section 2 amended (interpretation)**

Section 2, definition of *qualifying client*, paragraph (e)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**Division 28—Amendment to Securities and Futures  
(Insurance) Rules (Cap. 571 sub. leg. AI)**

**143. Section 2 amended (interpretation)**

Section 2(1), definition of *insurer*, paragraph (a)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

## Division 29—Amendments to Financial Reporting Council Ordinance (Cap. 588)

### 144. Section 2 amended (interpretation)

#### (1) Section 2(1)—

**Repeal the definition of *Insurance Authority***

**Substitute**

“*Insurance Authority* (保監局) means the Insurance Authority established under section 4AAA of the Insurance Ordinance (Cap. 41);”.

#### (2) Section 2(1), Chinese text, definition of 指明執行機構, paragraph (h)—

**Repeal**

“保險業監督”

**Substitute**

“保監局”.

### 145. Section 24 amended (Council to notify certain bodies of powers under Divisions 2 and 3 being exercisable)

#### (1) Section 24(2)(b)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

#### (2) Section 24(3)(b), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”.

### 146. Section 29 amended (investigator to consult before imposing certain requirements under Division 2)

Section 29(b)—

**Repeal**

“Insurance Companies Ordinance (Cap. 41), the Insurance Authority”

**Substitute**

“Insurance Ordinance (Cap. 41), the Insurance Authority”.

### 147. Section 42 amended (Council to notify certain bodies of powers under Division 2 being exercisable)

#### (1) Section 42(2)(b)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

#### (2) Section 42(3)(b), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”.

### 148. Section 43 amended (powers to require production of records and documents and provision of information and explanation)

Section 43(2)(b)—

**Repeal**

“Insurance Companies Ordinance (Cap. 41), the Insurance Authority”

**Substitute**

“Insurance Ordinance (Cap. 41), the Insurance Authority”.

**149. Section 51 amended (preservation of secrecy)**

Section 51(3)(b)(xiii), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”.

**Division 30—Amendments to Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615)**

**150. Section 5 amended (Schedule 2 has effect with respect to financial institutions)**

(1) Section 5—

**Repeal subsection (3)**

**Substitute**

“(3) Schedule 2 has effect with respect to a licensed individual insurance agent, licensed insurance agency or licensed insurance broker company only in relation to any transaction carried out by that agent, agency or company involving a contract of insurance described in column 3 of Part 2 of Schedule 1 to the Insurance Ordinance (Cap. 41).”.

(2) Section 5(11), definition of *long term business*—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**151. Section 7 amended (relevant authority may publish guidelines)**

(1) Section 7(2), Chinese text—

**Repeal**

“保險業監督” (wherever appearing)

**Substitute**

“保監局”.

(2) Section 7(7), definition of *relevant Ordinance*, paragraph (a)—

**Repeal**

“Insurance Authority, means the Insurance Companies Ordinance”

**Substitute**

“Insurance Authority, means the Insurance Ordinance”.

**152. Section 9 amended (power to enter business premises etc. for routine inspection)**

Section 9(15), definition of *business premises*—

**Repeal paragraphs (c), (d) and (e)**

**Substitute**

- “(c) in relation to an authorized insurer, means any premises used by the insurer in connection with its business;
- (d) in relation to a licensed individual insurance agent, means any premises at which the person by whom the agent is appointed as an agent carries on business;

- (e) in relation to a licensed insurance agency, means any premises at which—
  - (i) the agency carries on business; or
  - (ii) the person by whom the agency is appointed as an agent carries on business;
- (ea) in relation to a licensed insurance broker company, means any premises at which the company carries on business;”.

**153. Section 11 amended (relevant authorities may appoint investigators)**

Section 11(2)—

**Repeal paragraph (c)**

**Substitute**

“(c) in relation to the Insurance Authority, its employees; and”.

**154. Section 25 amended (persons to whom this Part does not apply)**

(1) Section 25(d)—

**Repeal**

“an authorized insurance broker”

**Substitute**

“a licensed insurance broker company”.

(2) Section 25(d)—

**Repeal**

“broker’s”

**Substitute**

“company’s”.

(3) Section 25(e)—

**Repeal**

“an appointed insurance agent”

**Substitute**

“a licensed individual insurance agent or a licensed insurance agency”.

(4) Section 25(e), after “agent’s”—

**Add**

“or agency’s”.

**155. Section 49 amended (preservation of secrecy)**

Section 49(3)(c)(iii), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”.

**156. Section 54 amended (interpretation of Part 6)**

(1) Section 54, Chinese text, definition of 指明決定, paragraph (c)—

**Repeal**

“保險業監督”

**Substitute**

“保監局”.

(2) Section 54, Chinese text, definition of 指明當局, paragraph (c)—

**Repeal**

“保險業監督”

**Substitute**

“保監局”。

**157. Section 80 amended (giving of notices by relevant authorities)**

(1) Section 80(2)—

**Repeal**

“Section 55 of the Insurance Companies Ordinance”

**Substitute**

“Section 125 of the Insurance Ordinance”.

(2) Section 80(2), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保監局”。

**158. Schedule 1 amended (interpretation)**

(1) Schedule 1, Part 2, section 1, definition of *authorized insurer*—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

(2) Schedule 1, Part 2, section 1, definition of *financial institution*—

**Repeal paragraphs (d) and (e)**

**Substitute**

“(d) a licensed individual insurance agent;

(e) a licensed insurance agency;

(ea) a licensed insurance broker company;”.

(3) Schedule 1, Part 2, section 1—

**Repeal the definition of *Insurance Authority***

**Substitute**

“*Insurance Authority* (保監局) means the Insurance Authority established under section 4AAA of the Insurance Ordinance (Cap. 41);”.

(4) Schedule 1, Part 2, section 1, definition of *relevant authority*—

**Repeal paragraph (c)**

**Substitute**

“(c) in relation to an authorized insurer, licensed individual insurance agent, licensed insurance agency or licensed insurance broker company, means the Insurance Authority; and”.

(5) Schedule 1, Part 2, section 1—

(a) definition of *appointed insurance agent*;

(b) definition of *authorized insurance broker*—

**Repeal the definitions.**

(6) Schedule 1, Part 2, section 1—

**Add in alphabetical order**

“*licensed individual insurance agent* (持牌個人保險代理) has the meaning given by section 2(1) of the Insurance Ordinance (Cap. 41);

*licensed insurance agency* (持牌保險代理機構) has the meaning given by section 2(1) of the Insurance Ordinance (Cap. 41);

*licensed insurance broker company* (持牌保險經紀公司) has the meaning given by section 2(1) of the Insurance Ordinance (Cap. 41);”.



**159. Schedule 2 amended (requirements relating to customer due diligence and record-keeping)**

Schedule 2, section 18(3)(b)—

**Repeal**

“an appointed insurance agent or an authorized insurance broker”

**Substitute**

“a licensed individual insurance agent, licensed insurance agency or licensed insurance broker company”.

**160. Schedule 4 amended (provisions relating to Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Review Tribunal)**

Schedule 4, section 6(11), definition of *representative*—

**Repeal paragraph (c)**

**Substitute**

“(c) in relation to the Insurance Authority, means an employee of the Authority; and”.

**Division 31—Amendments to Companies Ordinance (Cap. 622)**

**161. Section 5 amended (dormant company)**

Section 5(7)(b)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**162. Section 293 amended (certain amount relating to insurance company with long term business to be regarded as realized profit or loss)**

- (1) Section 293(5), definition of *actuarial investigation*, paragraph (a)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

- (2) Section 293(5), definition of *insurer*—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

- (3) Section 293(5), definition of *long term business*—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**163. Section 749 amended (interpretation)**

Section 749(2)(b)—

**Repeal**

“Insurance Companies Ordinance”

**Substitute**

“Insurance Ordinance”.

**164. Section 881 amended (permitted disclosure and restrictions)**

Section 881(2)(a)(xiii), Chinese text—

**Repeal**

“保險業監督”

**Substitute**

“保險業監管局”.

**Division 32—Amendments to Hong Kong Export Credit Insurance Corporation Ordinance (Cap. 1115)****165. Section 10 amended (Advisory Board establishment)**

(1) Section 10(2)—

**Repeal paragraph (a).**

(2) Section 10(3)—

**Repeal**

“the Commissioner of Insurance and”.

**Schedule 1**

[s. 2]

**Minor Amendments to Insurance Ordinance Relating to Replacement of “Insurance Authority” by “Authority”**

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
1.	Section 4, heading	<b>Insurance Authority</b>	<b>Authority</b>
2.	Section 4(2)	(a) Insurance Authority of any of his functions (b) and the Insurance Authority	Authority of any of its functions  and the Authority
3.	Section 4A, heading	<b>Insurance Authority</b>	<b>Authority</b>
4.	Section 4A(1) and (2)	Insurance Authority (wherever appearing)	Authority
5.	Section 6(1) and (2)	Insurance Authority	Authority
6.	Section 7(1) and (2)	Insurance Authority	Authority

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
7.	Section 8(1), (2) and (3)	Insurance Authority (wherever appearing)	Authority
8.	Section 8(1), English text	he	the Authority
9.	Section 11(1) and (3)	Insurance Authority (wherever appearing)	Authority
10.	Section 13(1) and (3)	Insurance Authority (wherever appearing)	Authority
11.	Section 13B(2), (3), (4) and (6)	Insurance Authority (wherever appearing)	Authority
12.	Section 13B(4), English text	to him	to the Authority
13.	Section 13C(1), (2), (5), (6), (7) and (8)	Insurance Authority (wherever appearing)	Authority
14.	Section 13C(6)(b)(i), English text	him	the Authority
15.	Section 13C(7), English text, proviso	Insurance Authority's	Authority's

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
16.	Section 14(1), (2), (2A), (4) and (5)	Insurance Authority (wherever appearing)	Authority
17.	Section 14(4)	(a) him (wherever appearing) (b) he (wherever appearing)	the Authority the Authority
18.	Section 15(1)(a)(ii)(B) and (3)	Insurance Authority	Authority
19.	Section 15A(1) and (2)	Insurance Authority	Authority
20.	Section 15B(1) and (2)	Insurance Authority	Authority
21.	Section 15C	Insurance Authority	Authority
22.	Section 17(1), (2) and (3)	Insurance Authority (wherever appearing)	Authority
23.	Section 17(3), English text	he	the Authority
24.	Section 18(1) and (2)	Insurance Authority (wherever appearing)	Authority

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
25.	Section 19(1) and (3)	Insurance Authority (wherever appearing)	Authority
26.	Section 19(3), English text	him	the Authority
27.	Section 19(3), English text	he	the Authority
28.	Section 20, heading	<b>Insurance Authority</b>	<b>Authority</b>
29.	Section 20(1) and (4)	(a) Insurance Authority (wherever appearing) (b) he	Authority the Authority
30.	Section 20(4)	him	the Authority
31.	Section 21(1)	Insurance Authority	Authority
32.	Section 22(1A)	Insurance Authority	Authority
33.	Section 22A(1), (2) and (5)	Insurance Authority	Authority
34.	Section 22A(2), English text	his	its

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## Schedule 1

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
35.	Section 22A(5), English text	he	the Authority
36.	Section 24(3) and (5)	Insurance Authority	Authority
37.	Section 25(4)	Insurance Authority (wherever appearing)	Authority
38.	Section 25A(1), (4), (6) and (9)	Insurance Authority (wherever appearing)	Authority
39.	Section 25A(4) and (6), English text	he (wherever appearing)	the Authority
40.	Section 25B, heading	<b>Insurance Authority</b>	<b>Authority</b>
41.	Section 25B(1), (3) and (5)	Insurance Authority	Authority
42.	Section 25B(1)	he (wherever appearing)	the Authority
43.	Section 25C(1), (2), (3) and (4)	Insurance Authority (wherever appearing)	Authority

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
44.	Section 25C(2), English text	his (wherever appearing)	its
45.	Section 25D(1), (2), (3), (4), (5), (6), (7), (8), (9) and (10)	Insurance Authority (wherever appearing)	Authority
46.	Section 25D(1), (2), (8), (9) and (10), English text	his (wherever appearing)	its
47.	Section 25D(2), (5) and (7), English text	him (wherever appearing)	the Authority
48.	Section 25D(2), (5), (7), (8) and (9), English text	he (wherever appearing)	the Authority
49.	Section 25D(3), English text	Insurance Authority's	Authority's
50.	Section 25D(10), Chinese text	他	保監局
51.	Section 25E(1) and (2)	Insurance Authority	Authority
52.	Section 25F(1)	Insurance Authority	Authority

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
53.	Section 26(1), (1A), (2), (3), (4), (5) and (6)	Insurance Authority (wherever appearing)	Authority
54.	Section 26(1) and (5), English text	him (wherever appearing)	the Authority
55.	Section 26(1), (5) and (6)	he (wherever appearing)	the Authority
56.	Section 26(3), English text	he	the Authority
57.	Section 26(5), English text	his	its
58.	Section 27(1)	Insurance Authority	Authority
59.	Section 28(1)	Insurance Authority (wherever appearing)	Authority
60.	Section 29(1), (2), (3) and (4)	Insurance Authority	Authority
61.	Section 29(1)	he	the Authority
62.	Section 30(1) and (4)	Insurance Authority	Authority

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## Schedule 1

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
63.	Section 30(1)	him	the Authority
64.	Section 31(1)	Insurance Authority	Authority
65.	Section 32(1) and (4)	Insurance Authority	Authority
66.	Section 32(4), English text	he	the Authority
67.	Section 33(1) and (2)	Insurance Authority	Authority
68.	Section 33(1) and (2), English text	him (wherever appearing)	the Authority
69.	Section 34(1), (2) and (3)	Insurance Authority (wherever appearing)	Authority
70.	Section 34(1), English text	him	it
71.	Section 34(1) and (2)	he (wherever appearing)	the Authority
72.	Section 34(3), English text	authorized by him	authorized by the Authority

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## Schedule 1

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
73.	Section 34(3)	to him	to the Authority or the person authorized by the Authority
74.	Section 35(1), (2), (3), (6) and (7)	Insurance Authority (wherever appearing)	Authority
75.	Section 35(6)	him	the Authority
76.	Section 35(7)	him	the Authority
77.	Section 35A(1)	Insurance Authority (wherever appearing)	Authority
78.	Section 35AA(1), (2) and (3)	Insurance Authority (wherever appearing)	Authority
79.	Section 35AA(1) and (2)	him (wherever appearing)	the Authority
80.	Section 35B(1)	Insurance Authority (wherever appearing)	Authority
81.	Section 36(1), (2), (3) and (4)	Insurance Authority (wherever appearing)	Authority
82.	Section 36(1)	he	the Authority

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## Schedule 1

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
83.	Section 37(1), (2), (3), (4), (5) and (6)	Insurance Authority (wherever appearing)	Authority
84.	Section 37(1) and (2)	he (wherever appearing)	the Authority
85.	Section 38(1) and (4)	Insurance Authority	Authority
86.	Section 38(1), English text	him	the Authority
87.	Section 38(4)	him	the Authority
88.	Section 38A(2)	Insurance Authority	Authority
89.	Section 38B(3) and (5)	Insurance Authority	Authority
90.	Section 38C(2)	(a) Insurance Authority (b) he	Authority the Authority, the Manager or the member of the insurer
91.	Section 38D(1) and (4)	(a) Insurance Authority (b) him	Authority the Authority

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
92.	Section 38E(1), (2), (3), (5) and (6)	Insurance Authority (wherever appearing)	Authority
93.	Section 38E(6), English text	he	the Authority
94.	Section 40(1), (2), (4) and (5)	Insurance Authority	Authority
95.	Section 44, heading	<b>Insurance Authority</b>	<b>Authority</b>
96.	Section 44(1), (2), (3) and (4)	Insurance Authority	Authority
97.	Section 44(3) and (4), English text	he (wherever appearing)	the Authority
98.	Section 44(4)	him	the Authority
99.	Section 45(1)	(a) Insurance Authority (b) he	Authority the Authority
100.	Section 46(6)	Insurance Authority (wherever appearing)	Authority
101.	Section 49A(1)	Insurance Authority	Authority

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
102.	Section 49B(1), (2) and (3)	Insurance Authority	Authority
103.	Section 50B(7)	Insurance Authority (wherever appearing)	Authority
104.	Section 50C(1), (4), (5), (7) and (9)	Insurance Authority (wherever appearing)	Authority
105.	Section 50C(7), English text	he	the Authority
106.	Section 53A(3), (3A), (3D) and (3E)	Insurance Authority (wherever appearing)	Authority
107.	Section 53A(3)(da), English text	his	its
108.	Section 53A(3)(g), Chinese text	他獲得	保監局獲得
109.	Section 53A(3A), English text	he	the Authority
110.	Section 53A(3E), Chinese text	他 (wherever appearing)	保監局

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
111.	Section 53B(1), (1A) and (2)	Insurance Authority (wherever appearing)	Authority
112.	Section 53C(1) and (2)	Insurance Authority	Authority
113.	Section 53C(2), English text	his	its
114.	Section 53D, heading	<b>Insurance Authority</b>	<b>Authority</b>
115.	Section 53D(1)	Insurance Authority (wherever appearing)	Authority
116.	Section 53E, heading	<b>Insurance Authority</b>	<b>Authority</b>
117.	Section 53E(1), (2) and (3)	Insurance Authority (wherever appearing)	Authority
118.	Section 72(1), (3) and (4)	Insurance Authority	Authority
119.	Section 74, heading	<b>Insurance Authority</b>	<b>Authority</b>



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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
120.	Section 74(2)	(a) Insurance Authority (wherever appearing)  (b) to him	Authority  to the Authority or the authorized person
121.	Section 74(2), English text	by him	by the Authority
122.	Schedule 1, Part 1, paragraphs 3A, 3B, 3E, 3F and 3FB	Insurance Authority	Authority
123.	Schedule 2, paragraphs 1, 2 and 3	Insurance Authority	Authority
124.	Schedule 3, Part 1, paragraph 5(1)(e)	Insurance Authority	Authority
125.	Schedule 3, Part 6, paragraph 36(1)	Insurance Authority (wherever appearing)	Authority
126.	Schedule 3, English text, Part 6, paragraph 36(1)	he (wherever appearing)	the Authority

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
127.	Schedule 3, Part 8, paragraph 40(1)	Insurance Authority	Authority
128.	Schedule 3, Part 8, paragraph 41(1)	Insurance Authority	Authority
129.	Schedule 4, paragraphs 1 and 2	Insurance Authority (wherever appearing)	Authority
130.	Schedule 5, paragraphs 1 and 2	Insurance Authority	Authority
131.	Schedule 6, paragraph 1	Insurance Authority	Authority

**Schedule 2**

[s. 2]

**Minor Amendments to Insurance Ordinance Relating to Replacement of “insurer” by “authorized insurer”**

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
1.	Section 13D(2)	an insurer (wherever appearing)	an authorized insurer
2.	Section 19(1)	every insurer	every authorized insurer
3.	Section 19(2)	insurers	authorized insurers
4.	Section 24(1)	an insurer	an authorized insurer
5.	Section 25C(1)	An insurer	An authorized insurer
6.	Section 25C(3)	an insurer	an authorized insurer
7.	Section 25D(1)	an insurer	an authorized insurer
8.	Section 25F(2)(a)	an insurer	an insurer or authorized insurer
9.	Section 27(1)	insurer	authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
10.	Section 27(2), Chinese text	保險人	有關保險人
11.	Section 28(1)	an insurer	an authorized insurer
12.	Section 28(2), Chinese text	保險人	有關保險人
13.	Section 29(1)	an insurer	an authorized insurer
14.	Section 29(3) and (5)	an insurer	an authorized insurer
15.	Section 29(5), Chinese text	保險人在	該保險人在
16.	Section 30(1)	an insurer	an authorized insurer
17.	Section 30(3)	of an insurer	of an authorized insurer
18.	Section 30(3) and (4)	for an insurer	for an authorized insurer
19.	Section 30(3), Chinese text	保險人已 (wherever appearing)	該保險人已

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
20.	Section 30(3), Chinese text	保險人指示	該保險人指示
21.	Section 30(5)	an insurer	an authorized insurer
22.	Section 30(5), Chinese text	如保險人	如該保險人
23.	Section 30(5), Chinese text	保險人的	該保險人的
24.	Section 31(1)	an insurer	an authorized insurer
25.	Section 32(1)	an insurer	an authorized insurer
26.	Section 32(4), Chinese text	保險人	有關保險人
27.	Section 33(1) and (2)	an insurer	an authorized insurer
28.	Section 34(1), (2) and (4)	an insurer (wherever appearing)	an authorized insurer
29.	Section 34(3)	any insurer	an authorized insurer
30.	Section 35(1) and (4)	an insurer	an authorized insurer

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## Schedule 2

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
31.	Section 35(2)(a)	the insurer	the authorized insurer
32.	Section 35(2)(b)	the insurer	the authorized insurer
33.	Section 35(3)	an insurer	an authorized insurer
34.	Section 35(5)(b), Chinese text	保險人	有關保險人
35.	Section 35A(1) and (2)	an insurer	an authorized insurer
36.	Section 35A(3)	an insurer	an authorized insurer
37.	Section 36(1)	an insurer	an authorized insurer
38.	Section 36(1), Chinese text	保險人送達	該保險人送達
39.	Section 36(1)(b), Chinese text	保險人要求	該保險人要求
40.	Section 37(1)	an insurer	an authorized insurer
41.	Section 37(5)	an insurer	an authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
42.	Section 38A(1) and (6)	an insurer (wherever appearing)	an authorized insurer
43.	Section 38A(2)	(a) An insurer (b) an insurer	An authorized insurer an authorized insurer
44.	Section 38A(3)	an insurer	an authorized insurer
45.	Section 38A(3)(a) and (b), Chinese text	保險人 (wherever appearing)	該保險人
46.	Section 38A(5)	an insurer	an authorized insurer
47.	Section 38A(5), Chinese text	要求保險人	要求該保險人
48.	Section 38A(6)(a) and (b), Chinese text	保險人	該保險人
49.	Section 38B(1), (2), (3), (7) and (8)	an insurer	an authorized insurer
50.	Section 38B(2), Chinese text	就保險人	就該保險人

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
51.	Section 38B(3)(a) and (b), Chinese text	保險人 (wherever appearing)	該保險人
52.	Section 38B(5)	(a) An insurer (b) an insurer	An authorized insurer an authorized insurer
53.	Section 38B(6)	an insurer	an authorized insurer
54.	Section 38B(7), Chinese text	以保險人	以該保險人
55.	Section 38C(1)	an insurer	an authorized insurer
56.	Section 38C(3)	an insurer	an authorized insurer
57.	Section 38C(3), Chinese text	指保險人	指該保險人
58.	Section 38D(3)(b)(i)	the insurer	the authorized insurer
59.	Section 38E(3)(b)	the insurer	the authorized insurer
60.	Section 38E(5) and (7)	an insurer	an authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
61.	Section 38E(7), Chinese text	保險人清盤	該保險人清盤
62.	Section 38E(8)	an insurer	an authorized insurer
63.	Section 42, heading	<b>insurer</b>	<b>authorized insurer</b>
64.	Section 42(1)	an insurer	an authorized insurer
65.	Section 43, heading	<b>insurer</b>	<b>authorized insurer</b>
66.	Section 43	an insurer	an authorized insurer
67.	Section 43, Chinese text	保險人即	該保險人即
68.	Section 44(1), (2), (3) and (4)	an insurer	an authorized insurer
69.	Section 45, heading	<b>insurer</b>	<b>authorized insurer</b>
70.	Section 45(1)	an insurer	an authorized insurer
71.	Section 45(2)	an insurer	an authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
72.	Section 45(2)(a) and (b), Chinese text	保險人 (wherever appearing)	該保險人
73.	Section 45(4A)	an insurer	an authorized insurer
74.	Section 45(4B)	an insurer	an authorized insurer
75.	Section 45(5)	an insurer	an authorized insurer
76.	Section 46, heading	<b>insurer</b>	<b>authorized insurer</b>
77.	Section 46(1)	an insurer	an authorized insurer
78.	Section 46(2)	existing insurer	existing authorized insurer
79.	Section 46(5) and (6), Chinese text	保險人	有關保險人
80.	Section 46(7), Chinese text	(a) 保險人的 (b) 保險人作出	有關保險人的 該保險人作出
81.	Section 47, heading	<b>insurers</b>	<b>authorized insurers</b>

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
82.	Section 47(1)	an insurer (wherever appearing)	an authorized insurer
83.	Section 47(4)	any insurer	an authorized insurer
84.	Section 47(6)	an insurer	an authorized insurer
85.	Section 48	an insurer	an authorized insurer
86.	Section 49(1)	an insurer	an authorized insurer
87.	Section 49(1)	insurers	authorized insurers
88.	Section 49(2)(b)	insurer	authorized insurer
89.	Section 49A, heading	<b>insurer</b>	<b>authorized insurer</b>
90.	Section 49A(1)	an insurer	an authorized insurer
91.	Section 49A(2)	an insurer	an authorized insurer
92.	Section 49A(3)	an insurer	an authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
93.	Section 49B(1) and (2)	an insurer (wherever appearing)	an authorized insurer
94.	Section 49B(3)	an insurer	an authorized insurer
95.	Section 49B(4)	Any insurer	An authorized insurer
96.	Section 50D	an insurer	an authorized insurer
97.	Section 50F(1)	an insurer	an authorized insurer
98.	Schedule 3, Part 1, paragraph 1(1), definition of <i>additional amount for unexpired risks</i>	an insurer	an authorized insurer
99.	Schedule 3, Part 1, paragraph 1(1), definition of <i>appointed actuary</i>	an insurer	an authorized insurer
100.	Schedule 3, Part 1, paragraph 1(1), definition of <i>appointed auditor</i>	an insurer	an authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
101.	Schedule 3, Part 1, paragraph 1(1), definition of <i>claim</i>	an insurer	an authorized insurer
102.	Schedule 3, Part 1, paragraph 1(1), definition of <i>claims equalization</i>	an insurer	an authorized insurer
103.	Schedule 3, Part 1, paragraph 1(1), definition of <i>claims outstanding</i>	an insurer	an authorized insurer
104.	Schedule 3, Part 1, paragraph 1(1), definition of <i>claims paid</i>	an insurer	an authorized insurer
105.	Schedule 3, Part 1, paragraph 1(1), definition of <i>commission payable</i>	an insurer	an authorized insurer
106.	Schedule 3, Part 1, paragraph 1(1), definition of <i>direct business</i>	an insurer	an authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
107.	Schedule 3, Part 1, paragraph 1(1), definition of <i>expenses for settling claims outstanding</i>	an insurer	an authorized insurer
108.	Schedule 3, Part 1, paragraph 1(1), definition of <i>expenses of settling claims</i>	an insurer's	an authorized insurer's
109.	Schedule 3, Part 1, paragraph 1(1), definition of <i>fund</i> , paragraph (a)	an insurer	an authorized insurer
110.	Schedule 3, Part 1, paragraph 1(1), definition of <i>gross premiums</i>	payable by the insurer	payable by the authorized insurer
111.	Schedule 3, Part 1, paragraph 1(1), definition of <i>intermediary</i>	an insurer	an authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
112.	Schedule 3, Part 1, paragraph 1(1), definition of <b><i>management expenses</i></b>	an insurer	an authorized insurer
113.	Schedule 3, Part 1, paragraph 1(1), definition of <b><i>profit and loss account</i></b>	an insurer	an authorized insurer
114.	Schedule 3, Part 1, paragraph 1(1), definition of <b><i>receivable</i></b>	due to the insurer	due to the authorized insurer
115.	Schedule 3, Part 1, paragraph 1(1), definition of <b><i>reinsurance premiums payable</i></b>	an insurer's	an authorized insurer's
116.	Schedule 3, Part 1, paragraph 1(1), definition of <b><i>unearned premiums</i></b>	an insurer	an authorized insurer
117.	Schedule 3, Part 1, paragraph 3	the insurer	the authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
118.	Schedule 3, Part 1, paragraph 4(1)	an insurer (wherever appearing)	an authorized insurer
119.	Schedule 3, Part 1, paragraph 4(1AA)	the insurer	the authorized insurer
120.	Schedule 3, Part 1, paragraph 4(1AB)	an insurer	an authorized insurer
121.	Schedule 3, Part 1, paragraph 4(1AC)	an insurer	an authorized insurer
122.	Schedule 3, Part 1, paragraph 4(1A)(a)(i)	the insurer	the authorized insurer
123.	Schedule 3, Chinese text, Part 1, paragraph 4(1A)(aa) and (b)	保險人 (wherever appearing)	該保險人
124.	Schedule 3, Part 1, paragraph 5(1)(a)	the insurer	the authorized insurer
125.	Schedule 3, Chinese text, Part 1, paragraph 5(1)(b)	保險人	該保險人



	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
126.	Schedule 3, Chinese text, Part 1, paragraph 5(1)(d)	保險人資產	該保險人的資產
127.	Schedule 3, Part 1, paragraph 5(1)(d)(i)	an insurer	an authorized insurer
128.	Schedule 3, Part 1, paragraph 5(1)(d)(ii)	an insurer	an authorized insurer
129.	Schedule 3, Part 2, paragraph 7	the insurer for	the authorized insurer for
130.	Schedule 3, Part 2, paragraph 8	the insurer and	the authorized insurer and
131.	Schedule 3, Part 2, paragraph 9(a)	the insurer	the authorized insurer
132.	Schedule 3, Chinese text, Part 2, paragraph 9(d), (e), (f), (g), (h), (i), (j), (k), (l), (n), (o) and (p)	保險人 (wherever appearing)	該保險人

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
133.	Schedule 3, Chinese text, Part 2, paragraph 9(m)	(a) 保險人或保險人 (b) 保險人欠	該保險人或該保險人 該保險人欠
134.	Schedule 3, Part 3, heading	INSURER	AUTHORIZED INSURER
135.	Schedule 3, Part 3, paragraph 10(a)	an insurer	an authorized insurer
136.	Schedule 3, Part 3, paragraph 12	an insurer	an authorized insurer
137.	Schedule 3, Part 3, paragraph 13	an insurer	an authorized insurer
138.	Schedule 3, Part 4, paragraph 14(a)	the insurer (wherever appearing)	the authorized insurer
139.	Schedule 3, Part 4, paragraph 16	the insurer shall	the authorized insurer must
140.	Schedule 3, Chinese text, Part 4, paragraph 16(f)	保險人	該保險人
141.	Schedule 3, Chinese text, Part 4, paragraph 16(g)(i)	保險人	該保險人

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
142.	Schedule 3, Part 4, paragraph 20	the insurer is	the authorized insurer is
143.	Schedule 3, Part 4, paragraph 21	the insurer's	the authorized insurer's
144.	Schedule 3, Chinese text, Part 4, paragraph 21	(a) 由保險人 (b) 在保險人	由該保險人 在該保險人
145.	Schedule 3, Part 4, paragraph 22(a)	the insurer	the authorized insurer
146.	Schedule 3, Chinese text, Part 4, paragraph 22(b)	保險人	該保險人
147.	Schedule 3, Chinese text, Part 4, paragraph 22(c)	保險人	該保險人
148.	Schedule 3, Part 5, paragraph 24(1)(a)	the insurer,	the authorized insurer,
149.	Schedule 3, Chinese text, Part 5, paragraph 24(1)(b), (c) and (e)	保險人 (wherever appearing)	該保險人

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
150.	Schedule 3, Chinese text, Part 5, paragraph 24(1)(d)	保險人從	該保險人從
151.	Schedule 3, Part 5, paragraph 24(2)	An insurer	An authorized insurer
152.	Schedule 3, Chinese text, Part 5, paragraph 24(3)	保險人	有關保險人
153.	Schedule 3, Part 5, paragraph 26(b)	the insurer's	the authorized insurer's
154.	Schedule 3, Chinese text, Part 5, paragraph 26(h) and (o)	保險人	該保險人
155.	Schedule 3, Part 5, paragraph 27(e)(i)	the insurer	the authorized insurer
156.	Schedule 3, Part 6, heading	INSURERS	AUTHORIZED INSURERS
157.	Schedule 3, Part 6, paragraph 29	the insurer	the authorized insurer
158.	Schedule 3, Part 6, paragraph 30(a)	the insurer's	the authorized insurer's

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
159.	Schedule 3, Chinese text, Part 6, paragraph 30(b) and (c)	保險人 (wherever appearing)	該保險人
160.	Schedule 3, Part 6, paragraph 31	proportion of the insurer's	proportion of the authorized insurer's
161.	Schedule 3, Chinese text, Part 6, paragraph 31	(a) 保險人已 (b) 與保險人 (c) 數。保險人 (d) 而保險人 (e) 入保險人	該保險人已 與該保險人 數。該保險人 而該保險人 入該保險人
162.	Schedule 3, Part 6, paragraph 32	the insurer's	the authorized insurer's
163.	Schedule 3, Part 6, paragraph 33	insurer in	authorized insurer in
164.	Schedule 3, Part 6, paragraph 34	insurer's long term business in	authorized insurer's long term business in
165.	Schedule 3, Part 6, paragraph 35	of the insurer	of the authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
166.	Schedule 3, Part 6, paragraph 36(1)	Every insurer	Every authorized insurer
167.	Schedule 3, Chinese text, Part 6, paragraph 36(1)(a) and (b) and (2)	保險人 (wherever appearing)	該保險人
168.	Schedule 3, Part 7, paragraph 38(1)	an insurer	an authorized insurer
169.	Schedule 3, Part 7, Form L1	name of insurer	name of authorized insurer
170.	Schedule 3, Chinese text, Part 7, paragraph 38(2)	保險人 (wherever appearing)	該保險人
171.	Schedule 3, Part 7, paragraph 39(1)	insurer under	authorized insurer under
172.	Schedule 3, Part 7, Form L2	name of insurer	name of authorized insurer
173.	Schedule 3, Part 7, paragraph 39(2)	the insurer	the authorized insurer
174.	Schedule 3, Part 8, heading	INSURER	AUTHORIZED INSURER

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## Schedule 2

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
175.	Schedule 3, Chinese text, Part 8, paragraph 40(1)(ii)	保險人	該保險人
176.	Schedule 3, Part 8, paragraph 40(2)(e) and (f)	an insurer	an authorized insurer
177.	Schedule 3, Part 8, Forms 1, 1A, 2, 2A, 3, 4, 5, 6, 7, 8 and 9	Name of insurer	Name of authorized insurer
178.	Schedule 3, Chinese text, Part 8, Form 2	保險人須	有關保險人須
179.	Schedule 3, Chinese text, Part 8, Form 3, Notes	如保險人	如有關保險人
180.	Schedule 3, Chinese text, Part 8, Form 4, Notes	(a) 如保險人 (b) 保險人須	如有關保險人 有關保險人須
181.	Schedule 3, Part 8, paragraph 41(2)(b)	the insurer	the authorized insurer

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## Schedule 2

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	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
182.	Schedule 3, Chinese text, Part 8, paragraph 41(2)(g)	保險人 (wherever appearing)	該保險人
183.	Schedule 3, Part 8, paragraph 41(4)	the insurer	the authorized insurer
184.	Schedule 3, Part 8, Forms HKL1, HKL2 and HKL3	<b>Name of insurer</b>	<b>Name of authorized insurer</b>
185.	Schedule 3, Part 8, Form HKL1, Note#	the insurer	the authorized insurer
186.	Schedule 3, Part 8, Form HKL3, Note*	the insurer	the authorized insurer
187.	Schedule 3, Part 9	Name of Insurer	Name of Authorized Insurer
188.	Schedule 5, paragraph 1	an insurer	an authorized insurer
189.	Schedule 5, Forms A and B	Name of Insurer	Name of Authorized Insurer
190.	Schedule 5, Forms A and B	Insert name of Insurer	Insert name of Authorized Insurer
191.	Schedule 6, heading	INSURER	AUTHORIZED INSURER

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
192.	Schedule 6, paragraphs 1 and 2	an insurer	an authorized insurer
193.	Schedule 6, Forms A and B	Name of Insurer	Name of Authorized Insurer
194.	Schedule 6, Forms A and B	Insert name of Insurer	Insert name of Authorized Insurer
195.	Schedule 7, heading	INSURER	AUTHORIZED INSURER
196.	Schedule 7, paragraphs 1, 2, 3, 5, 6, 7, 9, 10, 12, 14, 16, 17, 18 and 19	the insurer	the authorized insurer
197.	Schedule 7, paragraphs 8 and 21	insurer's	authorized insurer's
198.	Schedule 7, paragraph 15	insurer (wherever appearing)	authorized insurer

**Explanatory Memorandum**

The object of this Bill is to amend the Insurance Companies Ordinance (Cap. 41) (*the Ordinance*) for the purposes set out in the long title.

**Part 1—Preliminary**

2. Clause 1 sets out the short title and provides for commencement.
3. Clause 2 introduces the enactments that are amended by the Bill.

**Part 2—Amendments to the Ordinance**

4. Part 2 (clauses 3 to 94) sets out the amendments made to the Ordinance.

*Amendments to Part I of the Ordinance (preliminary)*

5. Clauses 3 and 4 amend the long title and short title of the Ordinance. The Ordinance is to be renamed as the Insurance Ordinance to reflect the introduction of a new licensing system for regulating insurance intermediaries.
6. Clause 5 amends the definition section of the Ordinance. In particular, clause 5 adds new definitions that are relevant to the establishment of the Insurance Authority (*the Authority*) and the introduction of the new licensing system for regulating insurance intermediaries.
7. Clause 7 adds a new section 3A to the Ordinance to set out what amounts to carrying on a regulated activity, making a material decision and giving regulated advice. The contents of regulated activity, material decision and regulated advice are set out in the new Schedule 1A (added by clause 86).

*New Part IA of the Ordinance (Insurance Authority)*

## Division 1—Establishment and functions, etc.

8. Clauses 8 to 13 add a new Division 1 to new Part IA of the Ordinance. Clause 9 adds a new section 4AAA to establish the Authority. Clause 10 repeals section 4(1) of the Ordinance. Clause 12 amends section 4A of the Ordinance to set out the functions of the Authority.
9. Clauses 11 and 13 add new sections 4AA and 4B to 4H to the new Division 1. New section 4AA sets out the composition of the Authority. New section 4B sets out the powers of the Authority. New section 4C requires the Authority to appoint industry advisory committees. New section 4D empowers the Authority to establish other committees. New section 4E empowers the Authority to employ staff and consultants. New sections 4F and 4G deal with the delegation of functions of the Authority. New section 4H requires the Authority to furnish certain information to the Financial Secretary in performing any of its functions.
10. Clause 14 repeals section 5 of the Ordinance which is re-enacted as new section 5H of the Ordinance (added by clause 16).

## Division 2—Accounting and financial arrangements

11. Clause 15 adds a new Division 2 (containing new sections 5A to 5G) to new Part IA of the Ordinance. New section 5A defines a number of expressions used in Division 2 of new Part IA. New section 5B requires the Authority to submit to the Financial Secretary corporate plans and annual estimates. New section 5C provides that the Government must pay to the Authority the monies appropriated by the Legislative Council. New section 5D requires the Authority to keep proper accounts and records of its transactions and to prepare annual financial statements. New sections 5E and 5F require the Authority to appoint auditors and to

submit to the auditors for audit its financial statements. New section 5G provides that the Authority is exempt from taxation.

*Amendments to Part II of the Ordinance (authorization)*

12. Clauses 16 to 30 amend Part II of the Ordinance. Clauses 18, 19, 20, 21 and 22 amend sections 8, 10, 11, 12 and 13 of the Ordinance to make minor textual amendments.
13. Clause 23 substitutes new section 13A for the existing section 13A. New section 13A requires an authorized insurer to obtain the Authority's prior approval on the appointment of certain controllers of the insurer and empowers the Authority to revoke the approval of appointment.
14. Clause 25 adds new sections 13AC to 13AH to Part II of the Ordinance. New section 13AC requires an authorized insurer incorporated in Hong Kong to obtain the Authority's prior approval on the appointment of a director of the insurer and empowers the Authority to revoke the approval of the appointment. New section 13AE requires an authorized insurer which is not a captive insurer to obtain the Authority's prior approval on the appointment of a person overseeing significant functions of the insurer. The new section 13AE empowers the Authority to revoke the approval of the appointment. New section 13AF empowers the Authority to impose conditions on granting approval under sections 13A, 13AC and 13AE. New section 13AG provides for the procedures for such approval. New section 13AH creates a new offence for providing false or misleading information in connection with the application for the approval.
15. Clause 29 amends parts of section 14 of the Ordinance which are in consequence of new sections 13A, 13AC and 13AE.
16. Clause 30 adds a new section 14A to the Ordinance which sets out the matters which the Authority must take into account in determining whether a person is a fit and proper person.

*Amendments to Part III of the Ordinance (accounts and statements)*

17. Clauses 31 to 39 amend Part III of the Ordinance. Clause 31 amends section 15 of the Ordinance so that the appointment of an actuary by certain authorized insurers is subject to the prior approval of the Authority.
18. Clause 35 amends section 16 of the Ordinance to empower the Authority to require an authorized insurer to provide its books of account. Clause 38 amends section 20 of the Ordinance to shorten the period within which an authorized insurer must deposit its account with the Authority.

*Amendments to Part IV of the Ordinance (long term business)*

19. Clauses 40 to 42 amend Part IV of the Ordinance. Clause 40 amends section 22 of the Ordinance to require an insurer to maintain separate accounts for each part of its long term business. Clauses 40(10) and 42(10) amend sections 22 and 23 of the Ordinance to increase the level of fine for certain offences.

*Amendments to Part V of the Ordinance (powers of intervention)*

20. Clauses 45 to 54 amend Part V of the Ordinance. Clause 48 repeals section 35B(2) and (3) of the Ordinance as a consequence of new section 5E. Clause 54 amends section 41 of the Ordinance to increase the level of fine for certain offences.

*New Part VA of the Ordinance (further regulatory powers on insurers)*

21. Clause 55 adds a new Part VA to the Ordinance (containing new sections 41A to 41W). The new Part VA gives the Authority powers to conduct investigations in respect of authorized insurers' contraventions of the provisions of the Ordinance. They include the power to conduct inspection (new section 41B), power to investigate suspected offences against the Ordinance (new section

- 41D) and power to enter premises and search for, seize and remove records and documents under a magistrate's warrant (new section 41K).
22. New section 41F enables applications to be made to the Court of First Instance for an inquiry into a person's failure to comply with a requirement imposed under new section 41B, 41C, 41D or 41E. The Court may order the person to comply with the requirement and punish the person in the same manner as if the person had been guilty of contempt of court. New sections 41G and 41I create offences in relation to inspections and investigations and destructions of documents, etc.
23. New section 41P enables the Authority to take disciplinary actions in respect of an authorized insurer. New section 41R requires the Authority to, before it first exercises a power to impose a pecuniary penalty, publish guidelines to indicate the way in which it proposes to exercise the power.
24. New section 41S makes general provisions relating to the exercise of disciplinary powers in respect of authorized insurers. New section 41U sets out the effect of suspension under new section 41P. New section 41V clarifies that the revocation or suspension of an authorization of an insurer does not avoid or affect an agreement etc. entered into by that insurer. New section 41W requires an authorized insurer to transfer to its policy holders specified records if the insurer's authorization is revoked or suspended.

*Amendments to Part VII of the Ordinance (special provisions relating to Lloyd's)*

25. Clauses 57 to 62 amend Part VII of the Ordinance which provides for special provisions relating to the society of underwriters known as Lloyd's. Clause 59 amends section 50C of the Ordinance to shorten the period within which Lloyd's must submit specified account and report to the Authority. Clause 61 amends section 50E

of the Ordinance to provide that Part X of the Ordinance applies to Lloyd's and a reference in that Part to an insurer or authorized insurer is a reference to a member of Lloyd's. Clause 62 adds a new section 50G to the Ordinance to provide that most of the provisions in new Part VA apply to one or more of Lloyd's, a member of Lloyd's or the members of Lloyd's taken together who carry on insurance business in Hong Kong.

*Amendments to Part VIIIA of the Ordinance (secrecy, disclosure of information and examinations by outside authorities)*

26. Clauses 64 to 69 amend Part VIIIA of the Ordinance. Clause 64 amends section 53A of the Ordinance to require certain personnel of the Authority to preserve secrecy with regard to matters that come to a person's knowledge in the performance of functions under the Ordinance and to extend the scope to cover matters relating to the affairs of insurance intermediaries.
27. Clause 65 amends section 53B of the Ordinance to provide that the Authority may disclose to overseas regulatory authorities information on matters relating to the affairs of a licensed insurance intermediary.
28. Clause 66 adds new subsections (1A) and (1B) to section 53C of the Ordinance to require a licensed insurance agency and licensed insurance broker company to permit the examination of books, accounts and transactions by an overseas insurance supervisory authority in certain circumstances.
29. Clause 69 adds a new section 53F to the Ordinance to require an auditor or a former auditor of an insurance broker company to report to the Authority in certain cases.

*Repeal of Part IX of the Ordinance (supplementary and transitional)*

30. Clause 70 repeals Part IX of the Ordinance as a consequence of the new Part XIII (Miscellaneous) (added by clause 84).

*Amendments to Part X of the Ordinance (insurance intermediaries)*

31. Clauses 71 to 83 amend Part X of the Ordinance. Part X now contains 5 Divisions.
32. Division 1 (containing new section 64F) defines a number of expressions used in Part X of the Ordinance.
33. Division 2 (containing new sections 64G to 64N) provides for certain restrictions. New section 64G of the Ordinance provides that it is an offence for a person who is not a licensed insurance intermediary to carry on any regulated activity or to hold out as a licensed insurance intermediary. New section 121 (in Part XIII of the Ordinance) sets out certain exceptions to new section 64G. New section 64H provides for application of new section 64G in relation to marketing insurance services outside Hong Kong.
34. New sections 64I to 64M set out various restrictions in relation to the number of authorized insurers by which a licensed insurance agency or licensed individual insurance agent may be appointed, personnel of licensed insurance agencies, personnel of licensed insurance broker companies, licensed technical representatives (agent) and licensed technical representatives (broker). New section 64N provides for the prohibition against an authorized insurer from entering into a contract of insurance through a person who is not a licensed insurance intermediary.
35. Division 3 (containing new sections 64O to 64ZZE) provides for matters relating to the licensing of insurance intermediaries.
36. Subdivision 1 of Division 3 (containing new sections 64O to 64T) requires the Authority to keep a register of licensed insurance intermediaries and requires a licensee to notify the Authority in certain cases.



37. Subdivision 2 of Division 3 (containing new sections 64U to 64ZG) provides for first applications for licences and approval. New sections 64U, 64W, 64Y, 64ZA and 64ZC provide for granting licences to an insurance agency, individual insurance agent, technical representative (agent), insurance broker company and technical representative (broker). New sections 64V, 64X, 64Z, 64ZB and 64ZD provide for the validity period of the licences. New sections 64ZE and 64ZF provide for granting approval to responsible officers of licensed insurance agencies and responsible officers of licensed insurance broker companies. New section 64ZG empowers the Authority to impose conditions on granting licences or approval.
38. Subdivision 3 of Division 3 (containing new sections 64ZH to 64ZU) sets out the circumstances in which the Authority may revoke or suspend the licence of a licensed insurance intermediary or revoke the approval of a responsible officer of a licensed insurance agency and a responsible officer of a licensed insurance broker company on non-disciplinary grounds. A licence is revoked on the death, dissolution or winding up of the licensee. A licensee may also request the Authority to revoke or suspend the licence.
39. Subdivision 4 of Division 3 (containing new sections 64ZV to 64ZY) provides for renewal of licences. New section 64ZV provides for renewal of licences issued under sections 64U, 64W, 64Y, 64ZA and 64ZC. New section 64ZW empowers the Authority to amend or revoke existing licence conditions and impose new licence conditions. New sections 64ZX and 64ZY provide for the validity for which applications for renewal have been made and the validity period of licences renewed.
40. Subdivision 5 of Division 3 (containing new sections 64ZZ to 64ZZE) provides for supplementary matters. New section 64ZZ requires an applicant to provide the Authority with information that it requires. New section 64ZZA sets out the matters which the Authority must take into account in determining whether a person is

- a fit and proper person. New section 64ZZB provides for procedural requirements on the Authority for rejecting an application or imposing or amending conditions. New section 64ZZC provides that a licence must be in a form specified by the Authority. New section 64ZZE creates a new offence in connection with the application for licence or approval.
41. Division 4 (containing new sections 64ZZF to 64ZZT) gives the Authority powers to conduct investigations in respect of licensed insurance intermediaries' contraventions of the provisions of the Ordinance. They include the power to conduct inspection (new section 64ZZF), power to investigate suspected offences against the Ordinance (new section 64ZZH) and power to enter premises and search for, seize and remove records or documents under a magistrate's warrant (new section 64ZZP).
42. New section 64ZZK enables applications to be made to the Court of First Instance for an inquiry into a person's failure to comply with a requirement imposed under new section 64ZZF, 64ZZG, 64ZZH or 64ZZI. The Court may order the person to comply with the requirement and punish the person in the same manner as if the person had been guilty of contempt of court. New sections 64ZZL and 64ZZN create offences in relation to inspections and investigations and destructions of documents, etc.
43. New sections 64ZZR to 64ZZT provide for supplementary matters in connection with records or documents seized under Division 4.
44. Clause 72 repeals sections 65, 66 and 67 of the Ordinance in consequence of the new Division 2 of Part X of the Ordinance. Clause 73 substitutes a new section 68(1), (2), (3), (4), (4A), (4B) and (4C) for the existing section 68(1), (2), (3) and (4) to make better provision for the relationship between an authorized insurer and a licensed insurance agent. Clause 74 adds a new section 68A to the Ordinance. The new section 68A sets out the circumstances in which certain provision of an agency agreement is void. Clauses

75 and 80 repeal sections 69, 70 and 75 of the Ordinance which are spent.

45. Clause 76 substitutes a new section 71 for the existing section 71. The new section 71 requires a licensed insurance broker company to separate client monies from the company's monies and to pay the client monies into a client account.
46. Clauses 77, 78, 79 and 81 amend section 72, 73, 74 and 76 of the Ordinance to bring them in line with the new Division 2 of Part X of the Ordinance. Clause 83 amends section 78 of the Ordinance in consequence of the new section 64G.

*New Part XI of the Ordinance (disciplinary actions and conduct requirements in respect of licensed insurance intermediaries and responsible officers)*

47. New Part XI provides for the disciplinary powers of the Authority and sets out the conduct requirements of licensed insurance intermediaries and responsible officers.
48. New section 79 defines a number of expressions used in the new Part XI. New section 80 enables the Authority to take disciplinary actions against licensed insurance intermediaries and responsible officers. New section 81 sets out the procedural requirements in respect of the exercise of powers by the Authority under new section 80.
49. New section 82 requires the Authority to, before it first exercises the power to impose a pecuniary penalty, publish guidelines to indicate the manner in which it proposes to exercise the power.
50. New section 83 makes general provisions relating to the exercise of powers under new section 80. New section 85 sets out the effect of suspension under new section 80. New section 86 clarifies that the revocation or suspension of a licence of a person does not avoid or affect an agreement entered into or arranged by the person. New

section 87 requires the person to whom the licence was granted to transfer records to their clients if the licence is revoked or suspended.

51. New section 88 empowers the Authority to permit a person to whom a licence was granted to carry on specified business operations even if the licence of the person is revoked or suspended.
52. New sections 89 to 91 set out the conduct requirements for licensed insurance intermediaries and their responsible officers. New sections 92 and 93 empower the Authority to make rules on those conduct requirements and to publish codes of conduct.

*New Part XII of the Ordinance (Insurance Appeals Tribunal)*

53. New Part XII provides for the Insurance Appeals Tribunal (***the Tribunal***). New section 95 establishes the Tribunal, which has jurisdiction to review specified decisions listed in the new Schedule 10 (added by clause 94). The Tribunal is to consist of a chairperson and 2 other members (new section 96). New section 97 provides that the new Schedule 10 (added by clause 94), which contains provisions concerning the procedures of the Tribunal, has effect with respect to the Tribunal. Under new section 98, a person affected by a specified decision may apply to the Tribunal for a review of the decision. The Tribunal may confirm, vary or set aside the decision or remit the matter to the Authority (new section 99).
54. New sections 100, 102 and 104 set out the various powers of the Tribunal. Under new section 102, the Tribunal has the same powers as the Court of First Instance to punish for contempt. New section 104 empowers the Tribunal to award costs to the parties to a review and other persons who attend a review.
55. New section 101 provides that evidence or information given by a person in accordance with a requirement or order of the Tribunal is generally not admissible in evidence against the person in criminal

proceedings. New section 103 provides that authorized institutions are not required to disclose information in relation to their customers who are not involved in the review concerned.

56. New section 105 requires the Tribunal to notify the parties to the review its determination and the reasons for its determination. The Tribunal may prohibit the disclosure of its determination or the reasons for it if the sitting relating to the review is held in private.
57. New section 106 provides for the form of the Tribunal's orders. New section 107 provides that the Tribunal's orders may be registered in the Court of First Instance. Orders so registered are regarded as orders of the Court of First Instance.
58. New section 108 provides that the making of an application for review does not operate as a stay of execution of the specified decision concerned. The applicant may, before the review is determined, apply to the Tribunal for a stay of execution. New section 109 enables a party to a review to apply to the Tribunal for a stay of execution of the Tribunal's determination of the review.
59. New sections 110 to 113 deal with appeals against the Tribunal's determination to the Court of Appeal. New section 110 provides that an appeal may only be made with leave of the Court of Appeal. The Court of Appeal may allow or dismiss an appeal, or vary or set aside the determination or remit the matter to the Tribunal or the Authority (new section 111).
60. New section 112 provides that the lodging of an appeal to the Court of Appeal does not operate as a stay of execution of the Tribunal's determination concerned. Any party to the review may apply to the Court of Appeal for a stay of execution.
61. New section 114 provides for the time when specified decisions take effect.
62. New section 115 empowers the Chief Justice to make rules relating to the registration of the Tribunal's orders in the Court of First

Instance and to make rules regulating the procedure for hearing appeals against the Tribunal's determination.

*New Part XIII of the Ordinance (miscellaneous)*

63. New Part XIII (containing new sections 116 to 136) provides for miscellaneous provisions which contains 4 Divisions.
64. Division 1 (containing new section 116) contains provision on immunity.
65. Subdivision 1 of Division 2 (containing new sections 117 to 120) substitutes a new section 117 for the existing section 56 and a new section 118 for the existing section 56A. New section 119 provides that it is an offence for a person to disclose information obtained in the course of inspection, investigation or disciplinary action. New section 120 requires an authorized insurer to notify the Authority of its cessation of place of business in Hong Kong. Subdivision 2 of Division 2 (containing new sections 121 to 124) provides for supplementary provisions of offences. New section 121 provides for certain exceptions to new sections 64G and 118. This Subdivision also substitutes a new section 122 for the existing section 57 and a new section 123 for the existing section 58. New section 124 empowers the Authority to prosecute certain offences in its own name.
66. Division 3 (containing new section 125) provides for service of notices.
67. Division 4 (containing new sections 126 to 136) provides for regulations and rules. New section 126 provides that, after consultation with the Authority, the Chief Executive in Council may by regulations provide for certain matters, including the payment to the Authority of prescribed fees. New section 127 empowers the Authority to make rules subject to the approval of the Financial Secretary. New section 129 provides that the rules may limit the effect of the Ordinance. New section 130 requires the

Authority to publish a draft of the proposed rules before it makes rules under the new section 127. New section 131 empowers the Authority to publish codes or guidelines for certain matters. New sections 132 and 133 empower the Chief Executive in Council to specify rates of levies, provide for the payment of levies, and reduce the amount or rate of levies. New section 134 requires the Financial Secretary to publish a draft of the proposed notice before the Financial Secretary publishes a notice under new section 13AE(14) or 121(5). New section 135 empowers the Authority to specify forms. New section 136 empowers the Chief Executive and the Authority to amend various Schedules.

*New Part XIV of the Ordinance (savings and transitional arrangements)*

68. New section 137 (Part XIV) and new Schedule 11 to the Ordinance (added by clause 94) provide for the necessary savings, transitional and supplemental provisions.

*Schedules to the Ordinance*

69. Clause 86 adds new Schedules 1A, 1B, 1C and 1D to the Ordinance. Part 1 of new Schedule 1A lists the acts that are regarded as regulated activities. Parts 2 and 3 of new Schedule 1A list the matters that are regarded as material decisions and regulated advice. New Schedule 1B sets out the constitution and proceedings of the Authority. New Schedule 1C sets out the constitution and proceedings of an industry advisory committee. New Schedule 1D lists out the functions of the Authority that are non-delegable.
70. Clause 88(10) and (13) amends Parts 2 and 5 of Schedule 3 to the Ordinance to impose a requirement on an authorized insurer to report certain form of business conducted by the insurer.
71. Clauses 85, 87, 88, 89, 90, 91, 92 and 93 contain minor textual amendments to various schedules.

72. Clause 94 adds new Schedules 9, 10 and 11 to the Ordinance. New Schedule 9 sets out the specified decisions. New Schedule 10 contains provisions relating to the members and procedures of the Tribunal. The Chief Executive is to appoint an appeal panel. For the purpose of determining a review, the Secretary for Financial Services and the Treasury will, on the recommendation of the chairperson of the Tribunal, appoint 2 panel members as ordinary members of the Tribunal. The chairperson is to convene sittings of the Tribunal as often as necessary to enable the Tribunal to determine a review. In specified circumstances, the chairperson may determine a review as the sole member of the Tribunal.

**Part 3—Related and consequential amendments**

73. Clauses 95 to 165 contain related and consequential amendments to several Ordinances.

**Schedule 1**

74. Schedule 1 contains minor textual amendments to various provisions in the Ordinance relating to replacement of “Insurance Authority” by “Authority”.

**Schedule 2**

75. Schedule 2 contains minor textual amendments to various provisions in the Ordinance relating to replacement of “insurer” by “authorized insurer”.

**Insurance Companies (Amendment) Bill 2014 (“the Bill”)**  
**Major Changes in Response to Consultation Feedback**

Issue	Original Proposals <sup>1</sup>	The Bill
Functions of the independent Insurance Authority (“IIA”)	“Promoting the development of the insurance industry” was not specified as a function of the IIA.	“Promoting competitiveness of the insurance industry in the global insurance market” is made one of the statutory functions of the IIA.
Governance structure	The IIA should have <u>at least one but not more than two</u> non-executive directors with knowledge of and experience in the insurance industry.	The IIA should have <u>at least two</u> non-executive directors with knowledge of and experience in the insurance industry. The statutory Industry Advisory Committees should also comprise members with knowledge of and experience in the insurance industry and the conduct of regulated activities.
Responsible officer (“RO”) of insurers	The chief executive officer of an insurer would be deemed to be an RO to ensure compliance with conduct requirements by licensed insurance agents appointed by the insurer.	An insurer is required to appoint a key person for performing the function of intermediary management. The appointment is subject to the IIA’s approval.
ROs of insurance intermediaries	Each licensed insurance agency and licensed insurance broker company would be required to have only one RO.	Subject to the IIA’s approval, a licensee which is a business entity can appoint more than one RO.

<sup>1</sup> These proposals were made during different stages of the consultation process.

Issue	Original Proposals <sup>1</sup>	The Bill
Specified suspension power	As a stop gap measure, the IIA may exercise a “specified suspension power” to suspend a licensee from carrying on regulated activities for a specified period pending a disciplinary decision if it is in the public interest to do so.	Discarded.
Principle of acting in the best interest of policyholders	All licensed insurance intermediaries would be required to act “in the best interest of policyholders”.	To allay insurance agents’ concern on a possible conflict of loyalty to the insurer and the client, it is specified that any term in an agreement between the insurer and its agent which contravenes the statutory “best interest” duty will be unenforceable.
Prior consultation with industry before imposing new regulatory requirement	Nil.	Specified in the legislation that the IIA must publish a draft for consultation before making any statutory rules.
Insurance intermediary activities of banks	The Hong Kong Monetary Authority (“HKMA”) would be vested with regulatory powers similar of the IIA, and HKMA might impose additional requirements on bank employees.	IIA will be the primary and lead regulator for all insurance intermediaries, including banks and their employees, and the sole regulator to set conduct standards and requirements. Only inspection and investigation powers in relation to regulated activities of banks may be delegated to the HKMA.

Issue	Original Proposals <sup>1</sup>	The Bill
Levy	A levy of 0.1 % of insurance premiums of all policies would be charged.	A levy cap of \$100 per life insurance policy and \$5,000 per non-life insurance policy will be imposed. Levy on premiums of reinsurance contracts will also be waived to avoid double-charging.
Other requirements	Licensed insurance intermediaries are required to file notifications (e.g. change of personal particulars) in 7 days, and the licence of a technical representative is deemed to be revoked if he is not engaged by a licensed insurance agency or licensed insurance broker company for 90 days.	The proposed statutory time-limits are extended to 15 days and 180 days respectively.

**Statutory Functions of the Independent Insurance Authority (“IIA”)**

- (1) The principal function of the IIA shall be to regulate and supervise the insurance industry for the promotion of the general stability of the insurance industry and for the protection of existing and potential policyholders.
- (2) Specifically, the IIA shall also –
  - (a) be responsible for supervising an authorized insurer's and a licensed insurance intermediary's compliance with the provisions of the Ordinance;
  - (b) consider and propose reforms of the law relating to insurance business;
  - (c) promote and encourage proper standards of conduct, and sound and prudent business practices, applicable to authorized insurers;
  - (d) promote and encourage proper standards of conduct of licensed insurance intermediaries;
  - (e) review and, if necessary, propose reforms of the systems for regulating authorized insurers and licensed insurance intermediaries;
  - (f) regulate the conduct of insurance intermediaries through a licensing regime;
  - (g) promote understanding by policyholders and potential policyholders of insurance products and the insurance industry;
  - (h) formulate effective regulatory strategies and facilitate sustainable market development of the insurance industry, and promote the competitiveness of the insurance industry in the global insurance market;
  - (i) conduct studies into matters affecting the insurance industry;
  - (j) assist the Financial Secretary in maintaining the financial stability of Hong Kong by taking appropriate steps in relation to the insurance industry; and
  - (k) co-operate with and assist financial services supervisory authorities of Hong Kong or of any place outside Hong Kong, whenever appropriate, to the extent permitted by the Ordinance.



**Checks and Balances to Enhance  
the Accountability of the Independent Insurance Authority (“IIA”)**

- (a) the IIA will have a majority of non-executive directors to oversee the performance of the executives;
- (b) regulatory decisions made by the IIA will be subject to appeal to the Insurance Appeals Tribunal;
- (c) the IIA shall table its annual report before the Legislative Council;
- (d) the annual budget and corporate plan of the IIA will be subject to the approval of Financial Secretary;
- (e) certain critical functions of the IIA shall be non-delegable (i.e. such functions must be performed by the IIA only and cannot be delegated to its committees or employees), e.g. the power to make subsidiary legislation and authorize a company to carry on any class of insurance business;
- (f) after the IIA has exercised its power to impose disciplinary sanctions against an authorized insurer or a licensed insurance intermediary, it will disclose to the public details of the relevant decision including the reasons and any material facts relating to the case;
- (g) an independent Process Review Panel will be established by the Chief Executive to review the internal process and procedures governing the exercise of regulatory powers by the IIA (and the Hong Kong Monetary Authority (“HKMA”) in respect of its supervision of insurance intermediary activities of banks);
- (h) complaints against maladministration of the IIA (and the HKMA in respect of its supervision of insurance intermediary activities of banks) may be lodged with the Office of the Ombudsman;
- (i) the Director of Audit may conduct value for money audit on the IIA;
- (j) the IIA would be included into Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) as one of the public bodies and the Independent Commission Against Corruption would be able to examine the practices and procedures of the IIA to facilitate the discovery of corrupt practices; and
- (k) the use of personal data by the IIA would be in compliance with the Personal Data (Privacy) Ordinance (Cap. 486).

## Civil Service, Financial and Economic Implications of the Proposal

### *Civil Service implications*

At present, there are 150 staff members in the Office of the Commissioner of Insurance (“OCI”), including the Commissioner of Insurance<sup>1</sup>, 48 Insurance Officers (“IOs”), 22 officers of the general grades and 79 non-civil service contract (“NCSC”) staff. For the IIA to achieve the desired institutional independence and operational flexibility, we propose that the IIA should recruit its own staff, and that the 48 IOs who are pensionable civil servants be retired on the Abolition of Office (“AOO”) terms after the establishment of the IIA. Officers of the general grades will then be redeployed to other Government bureaux/departments in accordance with the normal posting arrangements by the Director of General Grades. As for the NCSC staff, their contracts will be mutually resolved or terminated as appropriate.

2. The proposed exit package for the IOs includes the following two elements –

- (a) statutory entitlement based on AOO terms provided under the Pension Benefits Ordinance (Cap. 99), including enhanced lump sum pension gratuity totalling about \$167 million and enhanced monthly pension totalling about \$12 million per annum; and
- (b) subject to the approval of the Finance Committee of the Legislative Council (“LegCo”), a non-statutory payment totalling \$31 million comprising an ex-gratia payment of six months’ last substantive monthly salary amounting to about \$23 million<sup>2</sup>; and a special lump sum payment of about \$8 million<sup>3</sup>.

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<sup>1</sup> At present, the post of Commissioner of Insurance is being held against a supernumerary post of Administrative Officer Staff Grade B1. After the establishment of the independent Insurance Authority (“IIA”), the officer will be redeployed to other Government bureaux/departments in accordance with the normal posting arrangements.

<sup>2</sup> The ex-gratia payment has been granted to the affected officers in precedent AOO exercises since the 1990s.

<sup>3</sup> The special lump sum payment is calculated on a pro-rata basis of one month’s last substantive monthly salary for every five years before an officer reaches his normal retirement age of 60.

3. The non-statutory payment at (b) seeks to compensate for the loss of non-job related benefits for the affected IOs; and to recognise their unwavering dedication and commitment during the time when the plan of establishing the IIA was being contemplated while the workload for the OCI was mounting up during and after the global financial crisis of 2008, and their role in ensuring a smooth transition to the IIA.

#### *Financial implications*

4. The establishment of the IIA would mean savings to the public coffer of \$110 million per annum, being the recurrent funding for the OCI. As we will adopt an incremental approach for the introduction of a levy on insurance premiums and the variable fee to be paid by insurers, we have earmarked a lump sum provision of \$500 million to the IIA, partly to meet its expenses in the initial five years before the target levels of licence fees and levy are set in, and partly as contingency reserve.

5. Subject to enactment of the Bill, we will seek the approval of the Finance Committee of LegCo for the funding requirement of the non-statutory payment referred to at paragraph 2(b) above as well as the creation of a new commitment of \$500 million for setting up the IIA.

#### *Economic implications*

6. In 2012, the insurance sector contributed \$59,300 million in value added to the Hong Kong economy (a share of 2.9% to the gross domestic product). As an integrated part of the financial services sector, the systemic stability and sustainable growth of the insurance sector are important to the economy of Hong Kong.

7. The establishment of the IIA would strengthen the regulatory infrastructure and help provide better protection to policyholders. It would help promote the stability and growth of the insurance sector and reinforce Hong Kong's status as an international financial centre. The operating costs of the IIA would be borne together by the insurers, insurance intermediaries and the policyholders. This is consistent with the policy that financial market regulators should operate independently on a cost-recovery basis and user-paid principle.