

THE CODE OF PRACTICE

FOR THE ADMINISTRATION OF
INSURANCE AGENTS

保險代理管理守則

HKFI

香 港 保 險 業 聯 會
THE HONG KONG FEDERATION OF INSURERS

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香港保險業聯會
THE HONG KONG FEDERATION OF INSURERS

註冊有限公司
Incorporated with limited liability

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PART A : INTERPRETATION

Status

1. This is the Code of Practice for the Administration of Insurance Agents (the "Code") approved by the Insurance Authority pursuant to section 67 of the Insurance Companies Ordinance and referred to in Article 48 of the Articles of Association of The Hong Kong Federation of Insurers.

Definitions

2. In this Code, the following words are defined as follows:

"HKFI" means The Hong Kong Federation of Insurers;

"IARB" means the Insurance Agents Registration Board established by The Hong Kong Federation of Insurers to administer the Code pursuant to its Articles of Association;

"Insurance Agency" means an insurance agent which is not an individual insurance agent;

"Line of Insurance Business" means:-
(a) General Business; and/or
(b) Long Term Business

as defined in the Insurance Companies Ordinance;

"MPF Code" means the Code of Conduct for MPF Intermediaries issued by the Mandatory Provident Fund Schemes Authority ("MPFA"), as amended from time to time;

"MPF Intermediary" has the meaning assigned to it by the MPF Code;

"Ordinance" means the Insurance Companies Ordinance, Chapter 41 of the Laws of Hong Kong, as amended from time to time;

"Principal" means an insurer to whom Part X of the Ordinance applies or Lloyd's;

“Responsible
Officer”

in relation to

(a) an insurance agent which is an Insurance Agency means a person who, alone or jointly with others, is responsible for the conduct of the insurance agency business of such insurance agent, not being a person who:-

- (i) is also responsible for the conduct of other business; and
- (ii) has a subordinate responsible for the whole of the insurance agency business; or

(b) an insurance agent which is an Insurance Agency formed outside Hong Kong means a person who, alone or jointly with others, is responsible for the conduct of the whole of the insurance agency business of such insurance agent carried on within Hong Kong, not being a person who:-

- (i) is also responsible for the conduct of the insurance agency business carried on by the insurance agent elsewhere; and
- (ii) has a subordinate responsible for the whole of the insurance agency business carried on by the insurance agent within Hong Kong; and

“Technical
Representative”

in relation to an insurance agent means a person (not being an insurance subagent who is classified as an insurance agent for the purpose of this Code) who provides advice to a policy holder or potential policy holder on insurance matters for such insurance agent, or arranges contracts of insurance in or from Hong Kong on behalf of that insurance agent.

Application of the Ordinance

3. All words and expressions not defined in this Code shall have the meanings ascribed to them by the Ordinance.

Conflict with the Ordinance

4. The intention is that this Code should be no more onerous on Principals and insurance agents than the Ordinance. This Code should be interpreted according to that intent. In the event of a conflict between this Code and the Ordinance, the Ordinance shall prevail and this Code shall be invalid to the extent of any such inconsistency.

PART B : GENERAL PRINCIPLES

Functions of the IARB

5. The HKFI may give general directions or, in a particular case, specific directions to the IARB as to the execution of its functions under this Code and the IARB shall comply with such directions.

6. The IARB may:-

(a) refer complaints received by it:-

- (i) concerning insurance agents to any Principal or insurance agent; and
- (ii) concerning Responsible Officers or Technical Representatives to any Principal or the relevant insurance agent as appropriate

for investigation;

- (b) receive investigation reports from any Principal or relevant insurance agent relating to complaints mentioned in clause 6(a);
- (c) require any Principal or relevant insurance agent to take disciplinary action in consequence of a complaint;
- (d) confirm the appointment of insurance agents, Responsible Officers and Technical Representatives or revoke such confirmation;

(e) keep and maintain:-

- (i) a register of insurance agents; and
- (ii) a sub-register of insurance agents' Responsible Officers and Technical Representatives

whose appointments have been confirmed by the IARB; and

(f) report to the Insurance Authority where it appears to the IARB that:-

- (i) an insurance agent or a Principal has breached Part X of the Ordinance or this Code;

- (ii) an insurance agent is not or has ceased to be a fit and proper person to act as such; or
- (iii) a Responsible Officer or Technical Representative is not or has ceased to be a fit and proper person to act as such.

Guidance Notes

7. The IARB may issue Guidance Notes from time to time as to how it intends to exercise its powers and fulfil its responsibilities under this Code. Such Guidance Notes shall not form part of this Code.

Construction of the Code in both Official Languages

8. Sections 10B and 10C of the Interpretation and General Clauses Ordinance, Chapter 1 of the Laws of Hong Kong, shall apply to the construction and interpretation of the English language text and Chinese language text of the Code as if the Code was an "Ordinance" referred to in those sections.
9. The HKFI shall have the power to determine the meaning of the Code in both English and Chinese versions and to resolve inconsistencies, if any, between the two versions of the Code. Any determination made by the HKFI shall be conclusive and binding.

Criminal Prosecution

10. A Principal or an insurance agent who fails to comply with this Code or with Part X of the Ordinance may be subject to criminal prosecution pursuant to section 77 of the Ordinance.

PART C : RULES

INSURANCE AGENTS

Confirmation of the Appointment of Insurance Agents

11. A Principal shall obtain the confirmation of the IARB in accordance with this Code before confirming the appointment of any person as its insurance agent.

Registration of Insurance Agents

12. The IARB, on behalf of the relevant Principal, shall register an insurance agent as soon as practicable after receiving the application for registration of such agent by that Principal.
13. The registration of an insurance agent shall continue only for such period, not exceeding three years, as the IARB may specify. The relevant Principal may apply for re-registration of an insurance agent no earlier than three months before the expiration of that agent's registration.

Cancellation of the Registration of Insurance Agents

14. The registration of an insurance agent shall be cancelled upon the agent ceasing to be the agent of the relevant Principal. The Principal shall notify the IARB within seven days of such cessation and provide such details as the IARB may require. Upon such notification by the Principal, the IARB, on behalf of the Principal, shall immediately remove the agent from that part of the register relating to that Principal.

Notification to the Insurance Authority

15. The IARB, on behalf of the relevant Principal, shall give the Insurance Authority details of the registration and cancellation of registration of insurance agents within seven days of such registration or cancellation of registration and shall make the register available to the Insurance Authority for inspection.

Representation of Principals by Insurance Agents

16. A person shall not act as an insurance agent for more than four Principals of whom no more than two shall be long term insurers.
17. For the purposes of clause 16:-
 - (a) representation by a person of a composite insurer shall be regarded as the representation of two Principals, one general and one long term, unless the insurance agent's activities are restricted to either general or long term business; and
 - (b) representation by a person of a group of insurance companies shall be deemed to be one Principal if their activities are limited to either general or long term business, or two Principals if their activities include both general and long term business unless the insurance agent's activities are restricted to either general or long term business.

In this sub-clause:-

“group of companies” means that the relationship between the companies is that of “subsidiary” and “holding company” or they are the subsidiaries of another company; and

“subsidiary” and “holding company” shall have the meanings attributed to them by sections 2(4)-(7) of the Companies Ordinance.

18. If a person acts as an insurance agent for any Principal, he shall obtain the consent of such Principal prior to accepting an appointment to act as an insurance agent for another Principal.

Obligations of Principals in respect of Insurance Agents

19. A Principal shall ensure that each of its insurance agents:-
 - (a) does not, to the Principal's knowledge, act at any one time for more than the maximum number of Principals allowed;
 - (b) is eligible to engage in the Line of Insurance Business in respect of which the Principal is authorized to carry on and has appointed the insurance agent to engage in;

- (c) meets the fit and proper criteria set out in Part E of this Code;
- (d) is confirmed by and registered with the IARB in accordance with this Code;
- (e) is appointed as an insurance agent of the Principal in writing by an agency agreement. The agency agreement shall require the insurance agent to comply with Part F of this Code;
- (f) complies with this Code; and
- (g) has registered as an MPF intermediary with the MPFA where the insurance agent engages in selling or advising on Mandatory Provident Fund schemes or their constituent or underlying funds.

Termination of the Appointment of Insurance Agents

20. A Principal shall terminate the appointment of an insurance agent if the Principal becomes aware that such an insurance agent:-

- (a) acts at any one time for more than the maximum number of Principals allowed;
- (b) has been determined by the IARB not to be fit and proper to be an insurance agent; or
- (c) fails to comply with this Code.

Training of Insurance Agents

21. A Principal shall provide to each of its insurance agents sufficient training where a reasonable person receiving such training:-

- (a) shall be familiar with the requirements of the Ordinance and this Code; and
- (b) would thereby be able to competently undertake the duties of an insurance agent in accordance with the requirements of the Ordinance and this Code.

RESPONSIBLE OFFICERS AND TECHNICAL REPRESENTATIVES

Confirmation of the Appointment of Responsible Officers and Technical Representatives

22. An insurance agent shall obtain the confirmation of the IARB in accordance with this Code before confirming the appointment of any person as its Responsible Officer or Technical Representative.

Registration of Responsible Officers and Technical Representatives

23. The IARB shall register a Responsible Officer or Technical Representative as soon as practicable after receiving the application for registration of such Responsible Officer or Technical Representative by that insurance agent.
24. The registration of a Responsible Officer or Technical Representative shall continue only for such period, not exceeding three years, as the IARB may specify. The insurance agent may apply for re-registration of a Responsible Officer or Technical Representative no earlier than three months before the expiration of that Responsible Officer's or Technical Representative's registration.

Cancellation of the Registration of Responsible Officers and Technical Representatives

25. The registration of a Responsible Officer or Technical Representative shall be cancelled upon his cessation to be the Responsible Officer or Technical Representative of the insurance agent. The insurance agent shall notify the IARB within seven days of such cessation and provide such details as the IARB may require. Upon such notification by the insurance agent, the IARB shall immediately remove the Responsible Officer or Technical Representative from that part of the sub-register relating to that insurance agent.

Notification to the Insurance Authority

26. The IARB shall give the Insurance Authority details of the registration and cancellation of registration of Responsible Officers or Technical Representatives within seven days of such registration or cancellation of registration and shall make the sub-register available to the Insurance Authority for inspection.

Obligations of Insurance Agents in respect of their Responsible Officers and Technical Representatives

27. An insurance agent shall ensure that any person acting as its Responsible Officer or Technical Representative:
- (a) meets the fit and proper criteria for Responsible Officers and Technical Representatives set out in Part E of this Code;
 - (b) is eligible to engage in the Line of Insurance Business which the insurance agent is eligible to engage in;
 - (c) is confirmed by and registered with the IARB in accordance with this Code; and
 - (d) complies with this Code.

Termination of the Appointment of Responsible Officers or Technical Representatives

28. An insurance agent shall terminate the appointment of a Responsible Officer or Technical Representative if the insurance agent becomes aware that such a Responsible Officer or Technical Representative:-
- (a) has been determined by the IARB not to be fit and proper to be a Responsible Officer or Technical Representative; or
 - (b) fails to comply with this Code.

PART D : PROCEDURES

The Register

29. The IARB, on behalf of a Principal, shall keep and maintain:-

- (a) a register of insurance agents; and
- (b) a sub-register of insurance agents' Responsible Officers and Technical Representatives

whose appointments have been confirmed by the IARB. The register, including the sub-register, shall be kept in a manner and form determined by the Insurance Authority and shall be available for inspection by the public during normal working hours at the registered office of the HKFI.

Applications for the Confirmation of Appointment and Registration of Insurance Agents

30. The following provisions shall apply to every application made to the IARB for the confirmation of appointment and registration of an insurance agent:-

- (a) the relevant Principal shall be responsible for submitting the application;
- (b) the application shall be made in such manner and form as may be prescribed by the IARB from time to time;
- (c) the appointing Principal and the relevant insurance agent or proposed insurance agent shall provide to the IARB such additional information relevant to the application as the IARB may require;
- (d) the IARB shall not be required to consider an application unless it is made in the prescribed manner and form, is complete and in respect of which the information requested has been provided in full;

- (e) an appointing Principal who becomes aware of any change in the material circumstances of an insurance agent or proposed insurance agent who is the subject of a pending application shall notify the IARB forthwith of such change; and
- (f) an insurance agent or proposed insurance agent who is the subject of an application shall satisfy the IARB that he is fit and proper to act as such and, unless the IARB is so satisfied, it shall not confirm the appointment of that person as an insurance agent by the appointing Principal and register that person as the insurance agent of the appointing Principal.

Complaints against Insurance Agents

31. The following shall apply if the IARB receives a complaint concerning an insurance agent:-

- (a) the IARB may refer the complaint to any Principal or insurance agent for investigation;
- (b) the Principal shall diligently and expeditiously investigate the circumstances of the complaint and, on request by the IARB, report the progress and the findings (if any) of the investigation. In consequence of such report, the IARB may request the Principal to conduct further inquiries;
- (c) if the IARB considers that it is likely to take disciplinary action if a complaint is proven, the IARB shall provide the insurance agent being complained of and any Principal who is likely to be adversely affected by such action with an opportunity to make representations in such manner and form as the IARB considers appropriate and the IARB shall consider such representations;
- (d) when the IARB considers that all matters relevant to the complaint have been fully and satisfactorily investigated and reported and that all representations concerning the complaint have been considered and the complaint is proven, it may require a Principal to take disciplinary action;

(e) disciplinary action may include requiring a Principal to:-

- (i) issue a reprimand to an insurance agent;
- (ii) suspend or terminate the appointment of any of its insurance agents; or
- (iii) take or refrain from taking such other action as the IARB thinks fit;

an agent whose appointment has been terminated in these circumstances will be barred from registration as an insurance agent, a Responsible Officer or Technical Representative for a specified period;

- (f) when requiring disciplinary action affecting any Principal or insurance agent, the IARB shall also serve on that Principal and insurance agent a notification of that requirement together with a statement specifying the grounds therefor; and
- (g) if a Principal fails to comply with a requirement to take disciplinary action, the IARB may impose a further requirement and report such failure to the Insurance Authority.

Application for the Confirmation of Appointment and Registration of Responsible Officers and Technical Representatives

32. The following provisions shall apply to every application made to the IARB for the confirmation of appointment and registration of a Responsible Officer or Technical Representative:-

- (a) the insurance agent shall be responsible for submitting the application;
- (b) the application shall be made in such manner and form as may be prescribed by the IARB from time to time;

- (c) the appointing insurance agent and the relevant or proposed Responsible Officer or Technical Representative shall provide to the IARB such additional information relevant to the application as the IARB may require;
- (d) the IARB shall not be required to consider an application unless it is made in the prescribed manner and form, is complete and in respect of which the information requested has been provided in full;
- (e) an insurance agent who becomes aware of any change in the material circumstances of a Responsible Officer or Technical Representative or a proposed Responsible Officer or Technical Representative who is the subject of a pending application shall notify the IARB forthwith of such change; and
- (f) a Responsible Officer or Technical Representative or a proposed Responsible Officer or Technical Representative who is the subject of an application shall satisfy the IARB that he is fit and proper to act as such and, unless the IARB is so satisfied, it shall not confirm the appointment of that person as a Responsible Officer or Technical Representative by the insurance agent and register that person as the Responsible Officer or Technical Representative of the appointing insurance agent.

Complaints against Responsible Officers and Technical Representatives of Insurance Agents

23. The following shall apply if the IARB receives a complaint concerning a Responsible Officer or Technical Representative of an insurance agent:-

- (a) the IARB may refer the complaint to the insurance agent or any Principal as appropriate for investigation;

- (b) the insurance agent or any Principal as appropriate shall diligently and expeditiously investigate the circumstances of the complaint and, on request by the IARB, report the progress and the findings (if any) of the investigation. In consequence of such report, the IARB may request the insurance agent or the Principal to conduct further inquiries;
- (c) if the IARB considers that it is likely to take disciplinary action if a complaint is proven, the IARB shall provide the Responsible Officer or Technical Representative being complained of and the insurance agent who is likely to be adversely affected by such action with an opportunity to make representations in such manner and form as the IARB considers appropriate and the IARB shall consider such representations;
- (d) when the IARB considers that all matters relevant to the complaint have been fully and satisfactorily investigated and reported and that all representations concerning the complaint have been considered and the complaint is proven, it may require the insurance agent to take disciplinary action;
- (e) disciplinary action may include requiring an insurance agent to:-
- (i) issue a reprimand to a Responsible Officer or Technical Representative;
 - (ii) suspend or terminate the appointment of any of its Responsible Officer or Technical Representative; or
 - (iii) take or refrain from taking such other action as the IARB thinks fit;
- a Responsible Officer or Technical Representative whose appointment has been terminated in these circumstances will be barred from registration as an insurance agent, a Responsible Officer or Technical Representative for a specified period;

- (f) when requiring disciplinary action affecting an insurance agent, a Responsible Officer or Technical Representative, the IARB shall also serve on that insurance agent, Responsible Officer and Technical Representative concerned a notification of that requirement together with a statement specifying the grounds therefor; and
- (g) if an insurance agent fails to comply with a requirement to take disciplinary action, the IARB may impose a further requirement and report such failure to the relevant Principal and the Insurance Authority.

Appeals

- 34. (a) There shall be an Appeals Tribunal who shall determine appeals against decisions of the IARB made under this Code, and its decisions shall be final.
- (b) The members of the Appeals Tribunal shall be persons (not being members of the IARB) nominated by the HKFI and confirmed by the Insurance Authority.
- (c) Any person adversely affected by a decision of the IARB made under this Code may appeal to the Appeals Tribunal but that decision shall take effect immediately notwithstanding that an appeal has been or may be made.
- (d) The Appeals Tribunal may determine its own procedures but otherwise an appeal shall be conducted and determined in accordance with the Appeals Tribunal Proceedings Rules, as amended from time to time.
- (e) On determining an appeal the Appeals Tribunal may confirm, vary or reverse the decision being appealed or substitute therefor such other decision, consistent with the powers of the IARB, as it thinks fit.

Reports to the Insurance Authority

35. The IARB may report any matters concerning a complaint, the investigation of the complaint, the relevant Principal's or insurance agent's report or the disciplinary action required, to the Insurance Authority. Neither the IARB nor the individual members of the IARB shall incur any liability to any person concerned by making such disclosure in good faith.

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PART E : FIT AND PROPER CRITERIA

Fitness and Properness of Insurance Agents, Responsible Officers and Technical Representatives

36. (a) Before determining pursuant to clauses 20(b) and 30(f) or 28(a) and 32(f) that a person is not fit and proper to act or continue acting as an insurance agent, a Responsible Officer or Technical Representative, the IARB shall provide that person with an opportunity to make representations in such manner and form as the IARB considers appropriate and shall consider such representations; and
- (b) if, following such consideration, the IARB is not satisfied that a person is fit and proper to act or continue acting as an insurance agent, a Responsible Officer or Technical Representative, the IARB shall provide the Insurance Authority with a written report specifying the grounds for its opinion. The IARB shall give the person a copy of its report.

Matters Relevant to Fitness and Properness of Insurance Agents

37. In considering whether a person is fit and proper to act or continue acting as an insurance agent, the IARB shall take into account:-
- (a) whether that person has ever been declared bankrupt or been an officer or senior manager of a corporation that has become insolvent;
- (b) whether the person has acquired educational or other qualifications commensurate with his proposed responsibilities or responsibilities as an insurance agent;
- (c) whether the person has ever been convicted of any criminal offence which may affect his fitness, suitability or properness to act as an insurance agent or been found guilty of misconduct by a professional body to which he belongs or has belonged;
- (d) whether the person has failed to conduct insurance agency business in a manner complying with clauses 56 to 64 (Part F - Minimum Requirements of Model Agency Agreement) of this Code;

- (e) whether the person is found not to have complied with or is in breach of this Code and/or the rules of the HKFI;
- (f) whether the person possesses the qualifications specified in clause 40;
- (g) such other matters as the IARB considers relevant in the circumstances;
- (h) whether the person has registered as an MPF intermediary with the MPFA where the person engages in selling or advising on Mandatory Provident Fund schemes or their constituent or underlying funds;
- (i) if the person is also an MPF intermediary, whether the person is found not to have complied with or is in breach of the MPF Code; and
- (j) in case where the person is a company, partnership or sole proprietorship, whether the person has taken adequate measures to ensure that each of its own directors and employees, as appropriate:-
 - (i) has registered as an MPF intermediary with the MPFA; and
 - (ii) complies with the requirements as specified in the MPF Code where the director or employee engages in selling or advising on Mandatory Provident Fund schemes or their constituent or underlying funds.

38. The IARB may consider a person not fit and proper to act or continue acting as an insurance agent if:-

- (a) his appointment as an insurance agent was terminated by a Principal pursuant to a requirement imposed by the IARB or the Insurance Authority; or
- (b) in the opinion of the IARB, by his words or actions, he has manifested a material lack of understanding of the duties and ethical responsibilities of an insurance agent.

39. The IARB may consider a person not fit and proper to act or continue acting as an insurance agent if:-

- (a) any of its appointed Responsible Officers or Technical Representatives would not be considered fit and proper to act as an insurance agent if he applied as an individual; or
- (b) any of its controllers or directors would not be considered fit and proper to act as an insurance agent if he applied as an individual. For the purpose of this sub-clause, the education and Qualifying Examination requirements specified in clause 40(b) and (c) are not applicable to any controller or director not being an insurance agent, a Responsible Officer or Technical Representative.

Minimum Qualifications for Persons Acting as Insurance Agents

40. The minimum qualifications that an individual must fulfill before he may be considered by the IARB to be fit and proper to act as an insurance agent are that:-

- (a) he has attained the age of 18; and
- (b) he has completed education to a level of Form 5 or equivalent unless he has been an appointed insurance agent before 1 January 2000 and has not since ceased to be engaged in insurance-related work in the insurance industry for more than two consecutive years; and
- (c) he has successfully passed the relevant papers of the Insurance Intermediaries Qualifying Examination recognized by the Insurance Authority ("the Qualifying Examination") unless he has been exempted under the criteria specified in clause 43.

41. The Qualifying Examination consists of the following papers:-

- (a) compulsory paper - Principles and Practice of Insurance;
- (b) optional paper - General Insurance; and
- (c) optional paper - Long Term Insurance.

42. Subject always that no insurance agent shall engage in a class of insurance business other than that his Principal is authorized to carry on, an insurance agent, unless exempted under clause 43, is only eligible to engage in a Line of Insurance Business in respect of which he has passed the Qualifying Examination.
43. An individual shall be exempted from the Qualifying Examination if he
- (a) is in the insurance intermediary business immediately before 1 January 2000 and is in possession of one of the following:-
 - (i) proven relevant experience in insurance business in Hong Kong for a cumulative period of at least five years within the six-year period immediately before 1 January 2000; or
 - (ii) the Certificate of Proficiency in General Insurance Studies issued by the HKFI; or
 - (b) is in possession of any of the following recognized professional qualifications in insurance or actuarial science:-
 - (i) Associate or Fellow of the Chartered Insurance Institute (ACII/FCII);
 - (ii) Associate or Fellow of the Australian Insurance Institute (AAII/FAII);
 - (iii) Associate or Fellow of the Insurance Institute of New Zealand (AIINZ/FIINZ);
 - (iv) Fellow of the Life Management Institute (FLMI);
 - (v) Chartered Life Underwriter (CLU);
 - (vi) Chartered Property Casualty Underwriter (CPCU);
 - (vii) Hong Kong Diploma in Insurance Studies of the Insurance Institute of Hong Kong;
 - (viii) Fellow of the Institute of Actuaries of England (FIA);
 - (ix) Fellow of the Faculty of Actuaries in Scotland (FFA);
 - (x) Fellow of the Institute of Actuaries of Australia (FIAA); or
 - (xi) Fellow of the Society of Actuaries of the United States of America (FSA);or other qualifications acceptable to the Insurance Authority.

44. Subject always that no insurance agent shall engage in a class of insurance business other than that his Principal is authorized to carry on, an insurance agent who has been exempted under clause 43(a)(i) is only eligible to engage in the Line of Insurance Business in which he has engaged for five years within the six-year period immediately preceding 1 January 2000 or has substantially engaged during that five-year period.
45. Subject always that no insurance agent shall engage in a class of insurance business other than that his Principal is authorized to carry on, an insurance agent who has been exempted under clause 43(a)(ii) is eligible to carry on general insurance agency business only.
46. Subject always that no insurance agent shall engage in a class of insurance business other than that his Principal is authorized to carry on, an insurance agent who has been exempted under clause 43(b) is eligible to carry on both general and long term insurance agency business.
47. An insurance agent in the insurance intermediary business immediately before 1 January 2000 shall, unless exempted under clause 43, pass the Qualifying Examination on or before 31 December 2001 or the expiration of the validity of his existing registration, whichever is later.
48. An insurance agent who has ceased to be engaged in insurance-related work for more than two consecutive years shall pass the Qualifying Examination before he can be re-appointed as an insurance agent, unless he has been exempted under clause 43(b).
49. An insurance agent shall attend continuing professional development programmes in such manner and form as specified by the Insurance Authority.

Insurance Agent which is an Insurance Agency

50. Subject always that no insurance agent shall engage in a class of insurance business other than that his/its Principal is authorized to carry on, an insurance agent which is an Insurance Agency is only eligible to engage in the Line of Insurance Business which its Responsible Officer is eligible to engage in.

Matters Relevant to Fitness and Propriety of Responsible Officers and Technical Representatives

51. In considering whether a person is fit and proper to act or continue acting as a Responsible Officer or Technical Representative, the IARB shall take into account whether that person is fit to act as a general insurance agent (for the relevant or proposed Responsible Officer or Technical Representative intending to engage in general insurance agency business) or long term insurance agent (for the relevant or proposed Responsible Officer or Technical Representative intending to engage in long term insurance agency business) if he applied as an individual. In this connection, the provision in clauses 37, 40 to 49 may, as appropriate, apply to the relevant or proposed Responsible Officer or Technical Representative as if he were an insurance agent.
52. The IARB may consider a person not fit and proper to act or continue acting as a Responsible Officer or Technical Representative if:-
 - (a) his appointment as a Responsible Officer or Technical Representative was terminated by an insurance agent pursuant to a requirement imposed by the IARB or the Insurance Authority; or
 - (b) in the opinion of the IARB, by his words or actions, he has manifested a material lack of understanding of the duties and ethical responsibilities of a Responsible Officer or Technical Representative.

Other Matters Relating to the Eligibility for Persons Acting as Responsible Officers and Technical Representatives

53. A Technical Representative is only eligible to engage in a Line of Insurance Business which the insurance agent appointing him is eligible to engage in.
54. A Responsible Officer and Technical Representative shall attend continuing professional development programmes in such manner and form as specified by the Insurance Authority.

PART F : MINIMUM REQUIREMENTS OF MODEL AGENCY AGREEMENT

55. A Principal is required to appoint an insurance agent under a written agency agreement that meets the minimum requirements of a model agency agreement adopted by the HKFI. The HKFI will from time to time publish a model agency agreement. The minimum requirements of this model agency agreement will be the inclusion of the Conduct of Insurance Agents as follows for general insurance business and for long term insurance business.

Conduct of Insurance Agents for General Insurance Business

56. An insurance agent shall at all times conduct business in good faith and with integrity.
57. In the event of a complaint concerning the conduct of an insurance agent, the agent shall co-operate with the IARB and the Principal concerned to establish the facts. The complainant should be informed that he should in the first instance refer the complaint to the relevant Principal. If the complainant is still dissatisfied he may refer the matter to the IARB.
58. An insurance agent shall:-
- (a) identify himself as an insurance agent acting on behalf of the Principal(s) he represents prior to discussing insurance policies with any person;
 - (b) give advice only on those matters in which he is competent to deal with or otherwise seek advice from his Principal(s) when necessary;
 - (c) explain the cover afforded by each policy recommended to ensure that the prospective policy holder understands what he is buying;
 - (d) explain the differences to which he is referring when making comparisons with other types of policies;
 - (e) treat all information supplied by the prospective policy holder as confidential and disclose such information only to the Principal or Principals to which the business is being offered;

- (f) not make inaccurate or misleading statements about any Principals or their policies, or any other intermediaries;
 - (g) not impose any charge in addition to the policy premium without disclosing the amount and purpose of such charge to the policy holder before the binding of the policy; and
 - (h) not pay any part of any commission or discount allowed to the agent to any director, partner or employee of any insured as an inducement to place the business with the Principal unless the prior agreement and approval of the insured is received in writing.
59. In assisting a prospective policy holder to complete the proposal or application form, an insurance agent shall:-
- (a) not influence the prospective policy holder, and make it clear that the answers or statements given are the latter's own responsibility; and
 - (b) explain the consequences of fraud, non-disclosure and inaccuracies to the prospective policy holder and draw his attention to the relevant statements in the proposal form.

Conduct of Insurance Agents for Long Term Insurance Business

60. An insurance agent shall at all times conduct business in good faith and with integrity.
61. In the event of a complaint concerning the conduct of an insurance agent, the agent shall co-operate with the IARB and the Principal concerned to establish the facts. The complainant should be informed that he should in the first instance refer the complaint to the relevant Principal. If the complainant is still dissatisfied he may refer the matter to the IARB.
62. An insurance agent shall:-
- (a) identify himself as an insurance agent acting on behalf of the Principal(s) he represents prior to discussing insurance policies with any person;

- (b) make every reasonable effort to ensure that the policy proposed is suitable to the needs and resources of the prospective policy holder as disclosed to the insurance agent;
 - (c) give advice only on those matters in which he is competent to deal with or otherwise seek advice from his Principal(s) when necessary;
 - (d) explain the cover afforded by each policy recommended to ensure that the prospective policy holder understands what he is buying;
 - (e) explain the differences to which he is referring when making comparisons with other types of policies or forms of investment;
 - (f) treat all information supplied by the prospective policy holder as confidential and disclose such information only to the Principal or Principals to which the business is being offered;
 - (g) not make inaccurate or misleading statements about any Principals or their policies, or any other intermediaries;
 - (h) not impose any charge in addition to the policy premium without disclosing the amount and purpose of such charge to the policy holder before the binding of the policy;
 - (i) not make inaccurate or misleading statements or comparisons to induce an insured to replace existing long term insurance with other long term insurance to the insured's disadvantage;
 - (j) not pay or offer to pay any rebate of premium, commission or other incentive not specified in the policy as an inducement to any prospective long term insurance policy holder; and
 - (k) comply with the requirements as specified in the MPF Code where he engages in selling or advising on Mandatory Provident Fund schemes or their constituent or underlying funds.
63. In assisting a prospective policy holder to complete the proposal or application form, an insurance agent shall:-

- (a) not influence the prospective policy holder, and make it clear that the answers or statements given are the latter's own responsibility; and
 - (b) explain the consequences of fraud, non-disclosure and inaccuracies to the prospective policy holder and draw his attention to the relevant statements in the proposal form.
64. When selling policies related to long term business, an insurance agent shall:-
- (a) explain the long term nature of the policy and the consequences of early discontinuance and/or surrender;
 - (b) where a policy offers participation in profits, or is investment-linked, explain the difference between guaranteed and projected benefits;
 - (c) where projected benefits are illustrated, explain the assumptions on which the illustrations are based, including any future bonus or dividend declaration, and that projected benefits are not guaranteed;
 - (d) in the case of participating (with-profit) business, explain that any bonuses or dividends declared in the future may be lower or higher than those currently quoted and that past performance may not be a guide to future performance;
 - (e) in the case of unit-linked business, explain that unit value and the value of the policy holder's benefits may fluctuate;
 - (f) unless specifically authorized by a Principal, use only such sales proposals and illustrative figures that are supplied by the Principal and shall use the whole illustration in respect of the policy being discussed, and no other, and shall not add to it or select only the most favourable aspects of it; and
 - (g) if the insurance agent is authorized by a Principal to prepare certain illustrations himself, prepare them using only the assumptions authorized by the Principal.

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甲部：闡釋

法定地位

1. 此乃《保險代理管理守則》（下稱《守則》），已獲保險業監督根據《保險公司條例》第 67 條認可，並根據香港保險業聯會《立案章程》第 48 章編訂。

定義

2. 《守則》內出現之下列詞彙的定義如下：—

- 「保聯」 指香港保險業聯會；
- 「委員會」 指香港保險業聯會根據《立案章程》成立，負責執行《守則》內各項事宜的保險代理登記委員會；
- 「保險代理商」 指非個人保險代理；
- 「保險業務範圍」 指在《保險公司條例》內界定的：—
- (a) 一般保險業務；及 / 或
 - (b) 長期保險業務；
- 「《強積金守則》」 指由強制性公積金計劃管理局（積金局）發出的《強積金中介人操守守則》，以及其後之修訂；
- 「強積金中介人」 以《強積金守則》之定義為準；
- 「《條例》」 指《保險公司條例》，即《香港法例》第 41 章，包括《條例》制訂之後的所有修訂；
- 「保險公司」 指任何受《條例》第 X 部規範的保險人或勞合社；

「負責人」

就

(a) 屬保險代理商的保險代理而言，指單獨或與其他人士共同負責處理該保險代理的保險代理業務的人士，但不包括：

(i) 同時負責處理其他業務；並且

(ii) 有下屬負責整個保險代理業務的人士；或

(b) 香港以外地方成立而屬保險代理商的保險代理而言，指單獨或與其他人士共同負責處理該保險代理在香港經營的整個保險代理業務的人士，但不包括：

(i) 同時負責處理該保險代理在其他地方經營的保險代理業務；並且

(ii) 有下屬負責該保險代理在香港經營的整個保險代理業務的人士；以及

「業務代表」

就保險代理而言，指就保險事宜代表保險代理向保單持有人或潛在的保單持有人提供意見，或代表該保險代理在香港或從香港安排保險合約的人士，但不包括為本《守則》的施行而被歸類為保險代理的保險分代理。

《條例》之應用

3. 任何並未於《守則》中界定之詞彙或辭句，均以《條例》之解釋為準。

與《條例》抵觸處

4. 《守則》之原意並非在《條例》之外，對保險公司與保險代理附加規限，故此解釋《守則》時應以此為原則。假若《守則》與《條例》有抵觸，則以《條例》為準，又若《守則》與《條例》有不符處，則《守則》之有關部分自當無效。

乙部：一般原則

委員會之職責

5. 保聯可為委員會訂下一般指令，或在特殊情況下訂定特別指令，以便委員會根據《守則》執行職責，委員會必須遵守有關指令。

6. 委員會可：—

(a) 轉介投訴：—

(i) 保險代理之個案予保險公司或保險代理；以及

(ii) 負責人或業務代表之個案予保險公司或有關保險代理（視何者適用而定）

以作調查；

(b) 受理保險公司或有關保險代理就第 6 條 (a) 款提及的投訴個案所作的調查報告；

(c) 要求保險公司或有關保險代理繼投訴得直後採取紀律行動；

(d) 確認保險代理、負責人及業務代表的委任以及撤銷確認該等委任；

(e) 為所有已獲委員會確認之：—

(i) 保險代理進行登記，並保存有關登記冊；以及

(ii) 負責人及業務代表進行登記，並保存有關附屬登記冊；以及

(f) 就以下事件向保險業監督報告：—

- (i) 保險代理或保險公司違反《條例》第X部或《守則》；
- (ii) 任何保險代理不符合或不再符合適當人選準則出任保險代理；或
- (iii) 任何負責人或業務代表不符合或不再符合適當人選準則出任負責人或業務代表。

指引

7. 委員會可不時發出指引，說明意欲如何行使《守則》賦予委員會的權力，以及履行《守則》授予委員會之職責，但該等指引並不納入《守則》之內。

兩種法定語文《守則》的釋疑

8. 《香港法例》第1章《釋義及通則條例》第10B及10C條適用於《守則》英文本及中文本的釋疑及釋義，並應視《守則》為上述第10B及10C條所指的「條例」。
9. 保聯有權決定《守則》的中文及英文版意思；假如《守則》兩個版本的意思分歧，則保聯有權消釋有關分歧，保聯的決定乃最終決定，並具約束力。

刑事檢控

10. 任何未能遵守《守則》或《條例》第X部規定之保險公司或保險代理，可遭當局根據《條例》第77條提出刑事檢控。

丙部：規則

保險代理

確認保險代理的委任

11. 保險公司必須依照《守則》的規定，在取得委員會的確認後，方能委任有關人士成為其保險代理。

為保險代理進行登記

12. 委員會於收到保險公司為保險代理呈交之登記申請表後，會代表有關保險公司盡速為該保險代理進行登記。
13. 保險代理的登記有效期由委員會指定，最長不超過三年。有關保險公司可在保險代理登記有效期屆滿前三個月內，為該保險代理申請續期登記。

取消保險代理的登記

14. 當保險代理停止出任個別保險公司的保險代理時，有關登記應予以取消。保險公司應在該保險代理停止職務後七天內通知委員會，並向委員會提供所需資料。當委員會接到保險公司的通知後，會代表該保險公司立刻在登記冊中有關部分刪除該保險代理的登記。

通知保險業監督

15. 委員會會於為保險代理進行登記或取消登記後七天內，代表有關保險公司向保險業監督提交資料；並必須為保險業監督提供保險代理登記冊作查核之用。

保險代理代表的保險公司

16. 任何保險代理代表的保險公司總數不得超過四間，其中從事長期保險的保險公司不得超過兩間。

17. 有關第 16 條：—

- (a) 除非代理的業務範圍只限於一般保險或長期保險其中一類，否則任何代表一綜合保險人的人士，會被視為代表兩間保險公司，其中一間為一般保險公司，另一間則是長期保險公司；以及
- (b) 假如某保險公司集團的業務範圍只限於一般保險或長期保險，則任何代表該公司集團的人士，會被視為只代表一間保險公司。除非代理的業務範圍只限一般保險或長期保險其中一類，否則任何代理業務範圍包括一般保險及長期保險的公司集團的人士，會被視為代表兩間保險公司。

此款之：—

「保險公司集團」指公司之間的關係是「附屬公司」與「控股公司」之間的關係，或者是兩者均為另一公司的附屬公司，又

「附屬公司」及「控股公司」的意義以《公司條例》第 2 條 (4) 至 (7) 款之定義為準。

18. 任何代表某一間保險公司的保險代理，必須於接受其他保險公司委任之前，取得原先代表之保險公司的應允。

保險公司對其保險代理應負的責任

19. 保險公司應確保其保險代理：—

- (a) (據保險公司所知) 不會同時代表超過最高規定總數的保險公司；

- (b) 具備資格從事該保險公司獲授權經營以及其委任該保險代理從事的保險業務範圍；
- (c) 符合《守則》戊部適當人選準則；
- (d) 經委員會按《守則》規定確認及進行登記；
- (e) 乃經保險公司以書面合約委任為該保險公司之保險代理，有關代理合約必須要求保險代理遵守《守則》已部之規定；
- (f) 遵守《守則》之規定；以及
- (g) 已向積金局登記成為強積金中介人，如有關保險代理銷售強積金計劃，或強積金計劃的成分基金或基礎核准匯集投資基金，或就強積金計劃，或強積金計劃的成分基金或基礎核准匯集投資基金向客戶提供意見。

終止保險代理的委任

20. 保險公司如察覺保險代理有下列情況，應終止保險代理的委任：—

- (a) 同時代表超過最高規定總數的保險公司；
- (b) 被委員會裁定不適合出任保險代理；或
- (c) 未有遵守《守則》之規定。

保險代理的訓練

21. 保險公司必須為其保險代理提供足夠訓練，一般人在接受訓練後應能：—

- (a) 熟悉《條例》及《守則》的規定；以及
- (b) 根據《條例》及《守則》的規定履行保險代理的職責。

負責人及業務代表

確認負責人及業務代表的委任

- 22. 保險代理必須依照《守則》的規定，在取得委員會的確認後，方能委任有關人士成為其負責人或業務代表。

為負責人及業務代表進行登記

- 23. 委員會於收到保險代理為負責人或業務代表呈交之登記申請表後，會盡速為該負責人或業務代表進行登記。
- 24. 負責人或業務代表的登記有效期由委員會指定，最長不超過三年。有關保險代理可在負責人或業務代表登記有效期屆滿前三個月內，為該負責人或業務代表申請續期登記。

取消負責人或業務代表的登記

- 25. 當負責人或業務代表停止出任個別保險代理的負責人或業務代表時，有關登記應予以取消。保險代理應在該負責人或業務代表停止職務後七天內通知委員會，並向委員會提供所需資料。當委員會接到保險代理的通知後，會立刻在附屬登記冊中有關部分刪除該負責人或業務代表的登記。

通知保險業監督

- 26. 委員會會於為負責人或業務代表進行登記或取消登記後七天內，向保險業監督提交資料；並必須為保險業監督提供負責人及業務代表附屬登記冊作查核之用。

保險代理對其負責人及業務代表應負的責任

27. 保險代理應確保其負責人或業務代表：—

- (a) 符合《守則》戊部有關負責人及業務代表的適當人選準則；
- (b) 具備資格從事該保險代理有資格從事的保險業務範圍；
- (c) 經委員會按《守則》規定確認及進行登記；以及
- (d) 遵守《守則》之規定。

終止負責人或業務代表的委任

28. 保險代理如察覺負責人或業務代表有下列情況，應終止負責人或業務代表的委任：—

- (a) 被委員會裁定不適合出任負責人或業務代表；或
- (b) 未有遵守《守則》之規定。

丁部：程序

登記冊

29. 委員會會代表保險公司，為所有已被委員會確認的：—

- (a) 保險代理登記，並保存及更新有關登記冊；以及
- (b) 負責人及業務代表登記，並保存及更新有關附屬登記冊；

該登記冊，包括附屬登記冊，會依保險業監督規定的方式及形式保存，並於辦公時間內在保聯的註冊辦事處供市民查閱。

確認委任及登記保險代理之申請

30. 所有向委員會提交之確認委任及登記保險代理之申請，必須遵照下列條款之規定提出：—

- (a) 有關保險公司必須負責提交申請；
- (b) 申請必須依照委員會不時訂定的方式及形式提出；
- (c) 負責委任的保險公司及有關的保險代理或準保險代理，必須根據委員會所需，向委員會提交與申請有關的附加資料；
- (d) 除非申請以指定的方式及形式提交，並且完全填妥，又所需提交的資料齊備，否則委員會不必受理有關申請；
- (e) 假若負責委任的保險公司於保險代理或準保險代理的申請受理期間，得悉該保險代理或準保險代理的狀況有重大轉變，則負責委任的保險公司應知會委員會有關轉變；以及

- (f) 除非申請登記的保險代理或準保險代理能令委員會相信其符合適當人選準則出任保險代理，否則委員會不會確認保險公司委任該名人士為保險代理，亦不會登記該名人士為有關保險公司的保險代理。

投訴保險代理

31. 委員會於收到投訴保險代理個案時，會依下列程序處理：

- (a) 委員會可轉介該投訴予保險公司或保險代理調查；
- (b) 保險公司必須詳細及盡速調查有關投訴的背景原委，並根據委員會的要求，報告調查的進度及結果（如有者）。委員會可根據有關報告，要求保險公司作進一步查詢；
- (c) 假如投訴成立，而委員會認為有可能採取紀律行動，委員會必須為可能因有關紀律行動而受損的保險代理及保險公司提供機會申辯，只要有關申辯是以委員會認為合適的方式及形式作出，委員會必須考慮該等申辯；
- (d) 當委員會認為有關投訴的所有事宜已得到全面及令人滿意的調查及報告，又就有關投訴而提出的所有申辯經已獲得考慮後，而確定投訴成立，可要求保險公司採取紀律行動；
- (e) 紀律行動包括要求保險公司：—
 - (i) 向保險代理作出譴責；
 - (ii) 暫停或終止該公司任何保險代理的委任；或

- (iii) 根據委員會認為合適與否，採取或不採取其他行動。

在上述情況下被終止委任的保險代理，則於指定時限內，不會獲登記為保險代理、負責人或業務代表。

- (f) 當紀律行動涉及某保險公司或保險代理時，委員會應通知該保險公司及保險代理有關指示，隨函另附聲明詳述理據；以及
- (g) 假若保險公司未有遵照要求採取紀律行動，委員會可再次提出要求，並向保險業監督報告有關保險公司未有遵照要求採取紀律行動。

確認委任及登記負責人及業務代表之申請

32. 所有向委員會提交之確認委任及登記負責人或業務代表之申請，必須遵照下列條款之規定提出：—

- (a) 有關保險代理必須負責提交申請；
- (b) 申請必須依照委員會不時訂定的方式及形式提出；
- (c) 負責委任的保險代理及有關的負責人或業務代表或準負責人或準業務代表，必須根據委員會所需，向委員會提交與申請有關的附加資料；
- (d) 除非申請以指定的方式及形式提交，並且完全填妥，又所需提交的資料齊備，否則委員會不必受理有關申請；

- (e) 假若保險代理於負責人或業務代表或準負責人或準業務代表的申請受理期間，得悉該負責人或業務代表或準負責人或準業務代表的狀況有重大轉變，則保險代理應知會委員會有關轉變；以及
- (f) 除非申請登記的負責人或業務代表或準負責人或準業務代表能令委員會相信其符合適當人選準則出任負責人或業務代表，否則委員會不會確認保險代理委任該名人士為負責人或業務代表，亦不會登記該名人士為有關保險代理的負責人或業務代表。

投訴保險代理的負責人及業務代表

33. 委員會於收到投訴保險代理的負責人或業務代表個案時，會依下列程序處理：—

- (a) 委員會可轉介該投訴予保險代理或保險公司（視何者適用而定）調查；
- (b) 保險代理或保險公司必須詳細及盡速調查有關投訴的背景原委，並根據委員會的要求，報告調查的進度及結果（如有者）。委員會可根據有關報告，要求保險代理或保險公司作進一步查詢；
- (c) 假如投訴成立，而委員會認為有可能採取紀律行動，委員會必須為可能因有關紀律行動而受損的負責人或業務代表及保險代理提供機會申辯，只要有關申辯是以委員會認為合適的方式及形式作出，委員會必須考慮該等申辯；

(d) 當委員會認為有關投訴的所有事宜已得到全面及令人滿意的調查及報告，又就有關投訴而提出的所有申辯經已獲得考慮後，而確定投訴成立，可要求保險代理採取紀律行動；

(e) 紀律行動包括要求保險代理：—

(i) 向負責人或業務代表作出譴責；

(ii) 暫停或終止該代理任何負責人或業務代表的委任；
或

(iii) 根據委員會認為合適與否，採取或不採取其他行動。

在上述情況下被終止委任的負責人或業務代表，則於指定時限內，不會獲登記為保險代理、負責人或業務代表。

(f) 當紀律行動涉及某保險代理、負責人或業務代表時，委員會應通知該保險代理、負責人及業務代表有關指示，隨函另附聲明詳述理據；以及

g 假若保險代理未有遵照要求採取紀律行動，委員會可再次提出要求，並向有關保險公司及保險業監督報告該保險代理未有遵照要求採取紀律行動。

上訴

34. (a) 上訴裁判處會處理就委員會根據《守則》所作之決定提出的上訴，其決定乃最終的決定。

- (b) 上訴裁判處的成員（不能兼任委員會委員）必須由保聯提名，經保險業監督認可的人士擔任。
- (c) 假如任何人士因委員會根據《守則》所作的決定而受損，可向上訴裁判處上訴。但無論有關人士是否已經提出上訴、或將會提出上訴，委員會所作的決定即時生效。
- (d) 上訴裁判處可自行決定上訴程序，否則上訴程序及決定應以不時作出修訂的《上訴裁判處訴訟程序規則》為準。
- (e) 上訴裁判處於判決上訴時，可維持、改變或推翻原來決定；又假如裁判處認為合適，可根據委員會原有的權力，以其他決定取替原來的決定。

向保險業監督提交報告

- 35. 委員會可就投訴的各項事宜、調查、有關保險公司或保險代理的報告，或所需的紀律行動向保險業監督報告，委員會或委員會之個別成員毋須因本著誠信披露有關投訴而需對任何人士負上任何責任。

戊部：適當人選準則

保險代理、負責人及業務代表的適當人選準則

36. (a) 根據第 20 條 (b) 款及第 30 條 (f) 款，或第 28 條 (a) 款及第 32 條 (f) 款，委員會在決定某人因不符合適當人選準則而不適合出任或繼續出任保險代理、負責人或業務代表前，必須以其認為適合的方式及形式給予該名人士申辯的機會，委員會必須考慮有關申辯；以及
- (b) 假如委員會經考慮後，仍然認為某人因不符合適當人選準則而不適合出任或繼續出任保險代理、負責人或業務代表，委員會必須向保險業監督遞交書面報告詳述理由；委員會亦必須同時將報告的副本交予該名人士。

保險代理適當人選準則的有關事宜

37. 委員會在決定某人是否符合適當人選準則出任或繼續出任保險代理時，應考慮下列各點：—
- (a) 該名人士是否曾經宣布破產或曾在已經宣布破產的公司出任高級行政人員或高級經理；
- (b) 該名人士是否具備擬從事的職務或保險代理的職務所需之教育水平或其他資格；
- (c) 該名人士曾否被判犯刑事罪行，以致可能並不適合出任保險代理；又或其是否曾被所屬的專業團體裁定行為不當；
- (d) 該名人士是否於從事保險代理業務時，未有遵守《守則》第 56 至 64 條（已部－標準代理合約的最低要求）；
- (e) 該名人士是否曾經被裁定未有遵守或違反《守則》及／或保聯的規例；

- (f) 該名人士是否具備第 40 條所列之資格；
- (g) 委員會就個別情況認為有關之其他事宜；
- (h) 假若該名人士銷售強積金計劃，或強積金計劃的成分基金或基礎核准匯集投資基金，或就強積金計劃，或強積金計劃的成分基金或基礎核准匯集投資基金向客戶提供意見，他是否已向積金局登記成為強積金中介人；
- (i) 假若該名人士兼任強積金中介人，他是否曾經被裁定未有遵守或違反《強積金守則》；以及
- (j) 假若該名人士乃公司、合夥或獨資經營，而其董事或僱員（視何者適用而定）從事銷售強積金計劃，或強積金計劃的成分基金或基礎核准匯集投資基金，或就強積金計劃，或強積金計劃的成分基金或基礎核准匯集投資基金向客戶提供意見，他是否已採取足夠措施確保其各董事及僱員（視何者適用而定）：
 - (i) 已向積金局登記成為強積金中介人；以及
 - (ii) 遵守《強積金守則》內特定的要求。

38. 委員會可基於下列理由認定某人不符合適當人選準則，而不適合出任或繼續出任保險代理：—

- (a) 該保險代理的委任被某間保險公司根據委員會或保險業監督的要求撤銷；或
- (b) 委員會根據該名人士的言行表現，認定他對保險代理的職責與道德操守嚴重缺乏認識。

39. 委員會可基於下列理由認定某人不符合適當人選準則，而不適合出任或繼續出任保險代理：－

- (a) 該名人士委任的負責人或業務代表若以個人身分申請登記為保險代理，會被視為不符合適當人選準則而遭拒絕；或
- (b) 該名人士的控權人或董事若以個人身分申請登記為保險代理，會被視為不符合適當人選準則而遭拒絕。為本款的施行，第 40 條 (b) 及 (c) 款之學歷及資格考試要求，並不適用於任何不出任為保險代理、負責人或業務代表的控權人或董事。

保險代理的最低資格要求

40. 在決定任何人士是否符合適當人選準則出任保險代理前，委員會會先行考慮該名人士是否具備以下的最低資格要求：－

- (a) 年滿十八歲或以上；以及
- (b) 除非該名人士於 2000 年 1 月 1 日前已被委任為保險代理，而未有於期間連續兩年或以上停止從事與保險有關的工作，否則他必須完成中五課程或具同等學歷；以及
- (c) 除非該名人士根據第 43 條特定的準則獲得豁免，否則他必須在保險業監督所認可的保險中介人資格考試中的相關試卷取得及格成績。

41. 資格考試包括以下試卷：－

- (a) 必考試卷 — 保險原理及實務；
- (b) 可供選擇試卷 — 一般保險；以及

(c) 可供選擇試卷 — 長期保險。

42. 在保險代理不得從事其代表的保險公司獲授權經營以外的保險業務範圍之大前提下，除非根據第43條獲得豁免，否則保險代理只有資格從事與其在資格考試中取得及格成績科目有關的保險業務範圍。

43. 下列人士可獲豁免參加資格考試：—

(a) 於緊接 2000 年 1 月 1 日之前已從事保險中介人業務，並持有以下其中一項資格：—

(i) 於緊接 2000 年 1 月 1 日之前六年內，具有不少於五年可供驗證的本地保險業務的相關經驗；或

(ii) 由保聯發出的一般保險業務研習證書；或

(b) 持有以下其中一項認可的保險或精算師專業資格：—

(i) 英國特許保險學院院士或資深院士 (ACII 或 FCII)；

(ii) 澳洲保險學院院士或資深院士 (AAII 或 FAII)；

(iii) 紐西蘭保險學院院士或資深院士 (AIINZ 或 FIINZ)；

(iv) 美國壽險管理學會會士 (FLMI)；

(v) 特許壽險承保人 (CLU)；

(vi) 美國特許財產保險學會會士 (CPCU)；

(vii) 香港保險學會之保險學—香港文憑；

(viii) 英國精算師學會會員 (FIA)；

(ix) 蘇格蘭精算師學院會員 (FFA)；

(x) 澳洲精算師學會會員 (FIAA)；或

(xi) 美國精算師公會會員 (FSA)；

或其他保險業監督認可的資格。

44. 在保險代理不得從事其代表的保險公司獲授權經營以外的保險業務範圍之大前提下，根據第43條 (a) (i) 款獲得豁免的保險代理，只有資格從事與其於緊接 2000 年 1 月 1 日之前六年內具有五年經驗的保險業務範圍，或於該五年內具有的相當經驗的保險業務範圍。
45. 在保險代理不得從事其代表的保險公司獲授權經營以外的保險業務範圍之大前提下，根據第43條 (a) (ii) 款獲得豁免的保險代理，只有資格從事一般保險代理業務。
46. 在保險代理不得從事其代表的保險公司獲授權經營以外的保險業務範圍之大前提下，根據第 43 條 (b) 款獲得豁免的保險代理，有資格從事一般及長期保險代理業務。
47. 除非根據第 43 條獲得豁免，否則於緊接 2000 年 1 月 1 日前從事保險中介人業務的保險代理必須於 2001 年 12 月 31 日或之前，或其現時登記有效期滿前，以較後者為準，在資格考試中取得及格成績。
48. 除非根據第 43 條 (b) 款獲得豁免，否則已停止從事與保險有關的工作連續兩年或以上的保險代理，必須於再被委任為保險代理之前，在資格考試中取得及格成績。
49. 保險代理必須參與由保險業監督指定的方式及形式的持續專業培訓計劃。

屬保險代理商的保險代理

50. 在保險代理不得從事其代表的保險公司獲授權經營以外的保險業務範圍之大前提下，屬保險代理商的保險代理只有資格從事其負責人有資格從事的保險業務範圍。

負責人及業務代表適當人選準則的有關事宜

51. 委員會在決定某人是否符合適當人選準則出任或繼續出任負責人或業務代表時，應考慮該名人士若以個人身分申請登記為保險代理時，是否符合適當人選準則出任一般保險代理（如有關負責人或業務代表，或準負責人或準業務代表打算從事一般保險代理業務），或長期保險代理（如有關負責人或業務代表，或準負責人或準業務代表打算從事長期保險代理業務）。據此，第37、40至49條會視乎情況適用於有關負責人或業務代表，或準負責人或準業務代表，猶如他是保險代理一樣。
52. 委員會可基於下列理由認定某人不符合適當人選準則，而不適合出任或繼續出任負責人或業務代表：
- (a) 該負責人或業務代表的委任被某名保險代理根據委員會或保險業監督的要求撤銷；或
 - (b) 委員會根據該名人士的言行表現，認定他對負責人或業務代表的職責與道德操守嚴重缺乏認識。

出任負責人及業務代表資格的其他事宜

53. 業務代表只合資格從事委任他的保險代理合資格經營的保險業務範圍。
54. 負責人及業務代表必須參予由保險業監督指定的方式及形式的持續專業培訓計劃。

己部：標準代理合約的最低要求

55. 保險公司必須以書面代理合約方式委任保險代理，有關代理合約必須符合保聯採用的標準代理合約之最低要求；保聯會不時印行標準代理合約。標準代理合約的最低要求應包括下列所載「從事一般保險業務之保險代理的操守」及「從事長期保險業務之保險代理的操守」。

從事一般保險業務之保險代理的操守

56. 無論何時，保險代理都必須本著誠信及以正直態度進行業務。
57. 遇有投訴保險代理的操守時，保險代理應與委員會及保險公司合作，查明實情。有關保險代理必須通知投訴人應先把投訴交予有關保險公司處理，假如投訴人仍未滿意，則可將投訴轉介委員會處理。
58. 保險代理應該：
- (a) 不論與任何人士洽談保單之前，必須表明是以保險代理身分代表某保險公司洽談保單的；
 - (b) 提供保險事務意見時，只限於能力可處理的範圍之內，否則應徵詢其代表之保險公司的意見；
 - (c) 解釋推薦的每份保單的承保範圍，確保準保單持有人明白所購保單的內容；
 - (d) 與其他種類的保單作比較時，必須清楚解釋具體的分別；
 - (e) 對準保單持有人提供的所有資料絕對保密，除了安排有關業務之保險公司外，不得對任何人士披露準保單持有人之資料；

- (f) 不得就任何保險公司或其保單，或者其他中介人，作出不正確或有誤導成分的言論；
 - (g) 除非在簽署保單之前已向保單持有人披露保費以外其他收費之數額及用途，否則不得在保費以外附加任何收費；以及
 - (h) 除非事先取得被保人之書面同意及批准，否則不能向被保人的董事、合夥人或僱員提供代理部分應得的佣金或折扣，誘使被保人向有關保險公司投保。
59. 保險代理在協助準保單持有人填寫投保建議書或申請書時：—
- (a) 不得影響準保單持有人，並必須向準保單持有人清楚說明他本人要對答覆或聲明負全責；以及
 - (b) 向準保單持有人解釋欺詐、隱瞞事實及提供不正確資料的後果，以及指出投保書內所載的有關條文。

從事長期保險業務之保險代理的操守

60. 無論何時，保險代理都必須本著誠信及以正直的態度進行業務。
61. 遇有投訴保險代理的操守時，保險代理應與委員會及保險公司合作，查明實情。有關保險代理必須通知投訴人應先把投訴交予有關保險公司處理，假如投訴人仍未滿意，則可將投訴轉介委員會處理。
62. 保險代理應該：—
- (a) 不論與任何人士洽談保單之前，必須表明是以保險代理身分代表某保險公司洽談保單的；

- (b) 盡力確保建議的保單適合準保單持有人向保險代理披露的需要及負擔能力；
- (c) 提供保險事務意見時，只限於能力可處理的範圍之內，否則應徵詢其代表之保險公司的意見；
- (d) 解釋推薦的每份保單的承保範圍，確保準保單持有人明白所購保單的內容；
- (e) 與其他種類的保單或其他形式的投資作比較時，必須清楚解釋具體的分別；
- (f) 對準保單持有人提供的所有資料絕對保密，除了安排有關業務之保險公司外，不得對任何人士披露準保單持有人之資料；
- (g) 不得就任何保險公司或其保單，或者其他中介人，作出不正確或有誤導成分的言論；
- (h) 除非在簽署保單之前已向保單持有人披露保費之外其他收費之數額及用途，否則不得在保費以外附加任何收費；
- (i) 不得作出不正確或有誤導成分的言論或比較，誘使被保人以其他長期保險取代其現有的長期保險，引致該被保人蒙受損失；
- (j) 不得提供或答應提供任何保費回佣、佣金，或其他在保單中沒有說明的優惠，誘使準保單持有人購買長期保險；以及

- (k) 遵守在《強積金守則》內指定的要求，從事銷售強積金計劃，或強積金計劃的成分基金或基礎核准匯集投資基金，或就強積金計劃，或強積金計劃的成分基金或基礎核准匯集投資基金向客戶提供意見。
63. 保險代理在協助準保單持有人填寫長期保險投保建議書或申請書時：—
- (a) 不得影響準保單持有人，並必須向準保單持有人清楚說明他本人要對答覆或聲明負全責；以及
 - (b) 向準保單持有人解釋欺詐、隱瞞事實及提供不正確資料的後果，以及指出投保書內所載的有關條文。
64. 銷售與長期保險業務有關的保單時，保險代理應該：—
- (a) 解釋保單的長遠性質，以及提前中止合約及退保的後果；
 - (b) 若保單提供參與利潤分配或與投資相關，必須解釋保證收益及預計收益的分別；
 - (c) 舉例說明預計收益時，應解釋例子的各項假設，包括派發紅利或股息，以及說明保單持有人並不必然享有該等預計收益；
 - (d) 若保險計劃屬參與（有利潤）業務性質者，應向準保單持有人清楚指出將來派發的紅利或股息或會低於或高於現時列出的數據。過往的表現，不一定對將來的表現起指導作用；
 - (e) 若保險計劃具投資成分，應解釋單位值與保單持有人的收益或有波動；

- (f) 除非得到保險公司特別授權，否則在討論保險計劃時，只可使用保險公司提供的銷售計劃和數據例子，以及使用有關該保險計劃的整體說明，不得另用他例，亦不得另加資料或只選擇最有利的部分作討論；以及
- (g) 假如保險代理獲保險公司授權自行準備某些數據，則有關代理只能用獲保險公司授權認可的假設準備有關說明。

GUIDELINES ON MISCONDUCT

The Code of Practice for the Administration of Insurance Agents (the Code) specifies on clause 7 that the Insurance Agents Registration Board (IARB) may issue Guidance Notes from time to time as to how it intends to exercise its powers and fulfil its responsibilities under the Code. This Guidance Note is intended to help both insurers and insurance agents comply with the Code and in particular Part F clauses 56 and 60 of the Code. The phrase “in good faith and with integrity” used in those clauses cannot have a fully defined meaning however it is clear that it is in the best interests of customers, insurance agents and Principals to set out, from time to time, certain guidelines which if followed provide comfort to all concerned that all possible steps are being taken to conduct business in good faith and with integrity.

Failure to comply may constitute a breach of the Code by either a Principal under Part C clause 19 or an insurance agent under Part F clauses 56 and 60.

1. On no account will insurance agents ask customers to sign blank or incomplete forms and any alterations to forms must be initialised by the customers

Many complaints arise from prospective customers and/or clients whose interests have been adversely affected because they have submitted to their insurance agents' requests to sign blank forms. In order to protect the insuring public against potential losses arising from misrepresentation and forgery, insurance agents must not request their prospective customers and/or clients to sign blank forms or sign any documents relating to the policy before they have been duly completed and an alteration should be initialised by the customers.

2. An insurance agent selling a life assurance policy will ensure that the prescribed Customer Protection Declaration (CPD) form is completed

It is an insurance agent's duty to present each policy with complete honesty and objectivity. In the case where the client is already a policy holder, this means that full and fair disclosure of all facts regarding both the new coverage and the existing insurance is necessary. Policy holders should be made fully aware of the estimated cost of replacing an existing policy. In selling a life assurance policy, insurance agents must duly complete the CPD form as prescribed by the Hong Kong Federation of Insurers from time to time and bring the content to the attention of the customer.

3. Principals must establish control procedures to monitor insurance agents' compliance with the Code

Principals will take all necessary steps to satisfy itself that insurance agents are complying with the Code and with any Guidance Notes issued (as required by Part C clause 19). The IARB recognises that individual circumstances may arise where it is impracticable or unhelpful to the customer to adhere rigidly to the Code or the Guidance Notes but the IARB will expect a principal to be able to demonstrate that sufficient check and control exist to ensure that exceptions are rare and fully documented.

When dealing with complaints the IARB may ask the Principal to provide details of the monitoring and control systems in place to ensure the Guidance Notes are not breached. Principals should note that the IARB may report to the Insurance Authority under Part B clause 6(f)(i) if it believes that adequate controls are not in place.

違規行為指引

《保險代理管理守則》(《守則》)第7條訂明保險代理登記委員會(委員會)可不時發出指引,說明意欲如何行使《守則》賦予委員會的權力及履行《守則》授予委員會之職責。《違規行為指引》旨在協助保險公司及保險代理遵守《守則》,特別是《守則》內已部第56及60條的規定。雖然無可能就該兩章節所指的保險代理必須「本著誠信及以正直的態度進行業務」作出全面定義,惟為了保障顧客、保險代理及保險公司的最佳權益,委員會會不時發出指引,供業界遵行,務使各方人士明瞭,業界已盡其所能確保保險代理必須「本著誠信及以正直的態度進行業務」。

觸犯《違規行為指引》者可能導致違反《守則》,丙部第19條的規定適用於保險公司,又已部第56及60條的規定則適用於保險代理。

1. 在任何情況下,保險代理均不能要求顧客在空白或未填妥的表格上簽署,表格上的所有更正,必須經由顧客加簽

不少準顧客及/或客戶投訴因為順應保險代理的要求,在空白表格上簽署,導致權益受損。為了保障投保人不會因保險代理誤導顧客及偽造文件而蒙受損失,保險代理不可要求準顧客及/或客戶在空白表格上或在未完全填妥的表格上簽署;表格上的所有更正,必須經由顧客加簽。

2. 保險代理在售賣壽險保單時必須確保已填妥客戶保障聲明書

保險代理銷售保單時,有責任以至誠及客觀的態度向準投保人解釋保單內容,假如客戶已擁有其他壽險保單,則保險代理必須全面及公正地披露所有新舊保單的事實,以便保單持有人全面了解轉換保單可能帶來的預計損失。保險代理在售賣壽險保單時,必須填妥由香港保險業聯會不時修訂的客戶保障聲明書並提醒顧客留意聲明書內容。

3. 保險公司必須制定監控程序監管保險代理遵行《守則》的情況

保險公司必須(根據《守則》丙部第19條)採取措施,確保其保險代理遵照《守則》及所有指引。委員會明白在個別情況下,嚴格執行《守則》或指引或有實際困難及引起顧客不便,但委員會期望保險公司有足夠監察及管制措施,確保盡量減少出現例外情況,並將有關例外情況全面記錄。

委員會處理投訴時可要求保險公司提供監察及管制系統的詳情,以便確保保險公司並無違反指引。保險公司必須注意,假如委員會相信保險公司並無有效的管制措施,委員會將根據《守則》乙部第6條(f)(i)款的規定,向保險業監督報告。

GUIDELINES ON HANDLING OF PREMIUMS

The Code of Practice for the Administration of Insurance Agents (the Code) specifies on clause 7 that the Insurance Agents Registration Board (IARB) may issue Guidance Notes from time to time as to how it intends to exercise its powers and fulfil its responsibilities under the Code. This Guidance Note is intended to help both insurers and insurance agents comply with the Code and in particular Part F clauses 56 and 60 of the Code stipulated that an insurance agent shall at all times conduct business in good faith and with integrity.

Failure to comply may constitute a breach of the Code by either a Principal under Part C clause 19 or an insurance agent under Part F clauses 56 and 60.

Handling of Premiums

More than one third of complaints handled by the IARB relate to misappropriation or mishandling of premium. Customers will want to pay their premiums in a variety of ways including cash, credit card, cheque and bank transfer. It is up to the Principal to decide which methods are acceptable but the following methods are recommended:

Cheque in favour of the Principal or

Credit card/ direct deposit/ bank transfer from the customers' account to the Principal.

Any other method of payment or credit facilities extended to an agent should be subject to clear rules set out by the Principal designed to avoid the mixing of customers' money with agents' personal funds.

代理人應如何處理客戶保費指引

《保險代理管理守則》(《守則》)第7條訂明保險代理登記委員會(委員會)可不時發出指引,說明意欲如何行使《守則》賦予委員會的權力及履行《守則》授予委員會之職責。《代理人應如何處理客戶保費指引》旨在協助保險公司及保險代理遵守《守則》,特別是《守則》內已部第56及60條有關保險代理必須本著誠信及以正直的態度進行業務之規定。

觸犯指引者可能導致違反《守則》,丙部第19條的規定適用於保險公司,又已部第56及60條的規定則適用於保險代理。

代理人應如何處理客戶保費

委員會收到的投訴中,超過三分一針對挪用保費或處理保費失當之問題;查顧客可能選擇以不同方式支付保費,包括現金、信用咭、支票或銀行轉賬等。惟保險公司可自行決定接納哪些付款方式,以下乃一些建議:

以支票付款,抬頭為保險公司或

用信用咭/直接存款/由顧客銀行戶口直接轉賬至保險公司戶口

任何其他支付予代理人之付款或信貸方式,必須符合保險公司之明文規定,防止保險代理把顧客的保費與個人款項混在一起。

GUIDELINES ON THE EFFECTIVE DATE OF REGISTRATION OF INSURANCE AGENTS, RESPONSIBLE OFFICERS AND TECHNICAL REPRESENTATIVES

The Code of Practice for the Administration of Insurance Agents (the Code) specifies in clause 7 that the Insurance Agents Registration Board (IARB) may issue Guidance Notes from time to time as to how it intends to exercise its powers and fulfil its responsibilities under the Code. This Guidance Note is intended to help both insurers and insurance agents comply with the Code and in particular Part C clauses 11, 19(d), 22 and 27(c), which stipulate that the appointment of insurance agents, Responsible Officers and Technical Representatives shall be confirmed in accordance with the Code.

No prospective or current insurance agents, their Responsible Officers or Technical Representatives shall hold themselves out as engaging in the insurance agency business relating to a Principal before the IARB confirms their relevant registrations in writing by way of a Notice of Confirmation of Registration.

A prospective or current insurance agent must take note that it may be an offence under section 77 of the Insurance Companies Ordinance to hold himself out as an insurance agent of a Principal before he is registered by the IARB. Therefore, no person shall act or hold himself out as an insurance agent for and on behalf of any prospective appointing Principal before the date specified by the IARB in the Notice of Confirmation of Registration. Any breach may render the person liable to criminal prosecution for an offence under section 77 of the Insurance Companies Ordinance.

A prospective or current Responsible Officer or Technical Representative of an insurance agent should also take note that it may be a breach of the Code to hold himself out as the Responsible Officer or Technical Representative of such insurance agent before he is registered by the IARB. Therefore, no person shall be a Responsible Officer or Technical Representative of any prospective appointing insurance agent before the date specified by the IARB in the Notice of Confirmation of Registration. Any breach may affect the fitness and properness of the Responsible Officer, Technical Representative or insurance agent concerned.

保險代理、負責人及業務代表的登記生效日期指引

《保險代理管理守則》(《守則》)第7條訂明保險代理登記委員會(委員會)可不時發出指引，說明意欲如何行使《守則》賦予委員會的權力及履行《守則》授予委員會之職責。《保險代理、負責人及業務代表的登記生效日期指引》旨在協助保險公司及保險代理遵守《守則》，尤其是丙部第11、19(d)、22及27(c)條，有關條文訂明必須按照《守則》的規定委任保險代理、負責人及業務代表。

任何準保險代理、其負責人/業務代表或現任保險代理，其負責人/業務代表不得於委員會以《登記確認通知書》書面確認其登記前，顯示自己替某間保險公司從事保險代理業務。

任何準保險代理或現任保險代理必須注意，在未獲委員會登記前而顯示自己為某保險公司的保險代理，有可能構成《保險公司條例》第77條所述的罪行。因此，任何人士於委員會發出的《登記確認通知書》訂明的日期前，不應出任或顯示自己為任何正在替其向委員會辦理登記的保險公司的保險代理。如有違者，有關人士可因觸犯《保險公司條例》第77條所述的罪行而遭刑事檢控。

任何保險代理的準負責人/準業務代表或現任負責人/現任業務代表亦須注意，在未獲委員會登記前而顯示自己為某保險代理的負責人/業務代表，有可能違反《守則》內的規定。因此，任何人士於委員會發出的《登記確認通知書》訂明的日期前，不應出任任何正替其向委員會辦理登記的保險代理的負責人/業務代表。如有違者，可能會令該負責人、業務代表或有關保險代理不能符合適當人選的準則。