

23 July 2021

Our Ref: MC/CPD/CIR

By email only

To: Chief Executives of all authorized insurers, Responsible Officers of all licensed insurance agencies and licensed insurance brokers companies

Dear Sirs,

Penalty Framework for Non-compliance with Continuing Professional Development Requirements

As you know, all individual licensees are required to comply with the Continuing Professional Development (“CPD”) requirements set out in the Guideline 24 on Continuing Professional Development for Licensed Insurance Intermediaries (“GL24”) issued by the Insurance Authority (“IA”).

The requirement to complete CPD hours plays a vital part in upholding standards of professionalism in the insurance industry, ensuring individual licensees keep their knowledge up-to-date so that policyholders can trust and rely on their expertise on insurance matters.

In the IA’s view, failure by an individual licensee to comply with the CPD requirements is likely to adversely affect his/her fitness and properness to carry on regulated activities and disciplinary action should follow.

To provide transparency on the IA’s disciplinary approach to CPD non-compliances, we hereby publish the “CPD penalty framework for non-compliance with CPD requirements” (“CPD Penalty Framework”) which outlines the disciplinary action(s) the IA would impose for non-compliances related to the CPD requirements. The CPD Penalty Framework covers the following non-compliances:

- a) failure to complete requisite CPD hours during an assessment period;
- b) failure to submit or late submission of a completed CPD Declaration Form;
- c) declaring false information in a CPD Declaration Form.

With regards to the failure to complete requisite CPD hours during an assessment period, the CPD Penalty Framework takes a proportionate approach with the penalty to be imposed reflective of the shortfall in CPD hours completed and with increasing penalties to be imposed the longer the individual licensee takes to make good the shortfall. With regards to any declaration of false information in a CPD Declaration Form, apart from attracting disciplinary action, individual licensees should also be mindful of the potential criminal consequences of committing such deceit.

Reflecting the impact of the coronavirus outbreak

In light of the impact of the coronavirus outbreak, the IA has already merged the CPD assessment period for 23 September 2019 to 31 July 2020 with the CPD assessment period for 1 August 2020 to 31 July 2021. The IA has also reflected the impact of the coronavirus outbreak in the CPD Penalty Framework for this merged CPD assessment period (by including an element of leniency which is not available to subsequent CPD assessment periods).

Accordingly, the CPD Penalty Framework sets out the penalty framework for the merged CPD assessment period from 23 September 2019 to 31 July 2021, and a separate penalty framework for subsequent assessment periods.

Responsibilities of principals

Whilst the CPD Penalty Framework only sets out the penalty framework for individual licensees who fail to comply with the CPD requirements, we would also remind all principals of the following:

- Under GL24 (paragraphs 3.8 and 3.9), a principal (whether an authorized insurer, licensed insurance broker company or licensed insurance agency) is required to ensure that each individual licensee it appoints complies with the applicable CPD requirements, and that it has in place adequate controls and procedures to monitor and ensure their CPD compliance.
- Per our circular of 30 August 2019, the internal controls which a key person in control function for intermediary management is required to establish, should include adequate controls to ensure the insurer's appointed licensed insurance agents comply with the CPD requirements.

The absence of such adequate controls and procedures may, the IA's view, reflect negatively on (i) the fitness and properness of the directors, controllers and key persons in relevant control functions of an authorized insurer; and (ii) the fitness and properness of a licensed insurance broker company or licensed insurance agency and their directors, controllers and responsible officers. The IA will take account of this in its supervisory and disciplinary approach.

Dissemination of Information in this Circular

We ask that you disseminate the information in this circular and the CPD Penalty Framework to all your appointed individual licensees (and, in the case of authorized insurers, also to your appointed insurance agencies) to ensure they are made fully aware of the penalties to be imposed by the IA for non-compliance with the CPD requirements. To assist with this, a summary table of the penalties is attached to the CPD Penalty Framework.

If you have any questions concerning this circular, please send an email to cpd-enf@ia.org.hk.

Yours faithfully,

Peter Gregoire
Head of Market Conduct (Acting)
General Counsel
Insurance Authority

c.c. The Hong Kong Federation of Insurers
Professional Insurance Brokers Association
The Hong Kong Confederation of Insurance Brokers

Penalty Framework for Non-compliance with Continuing Professional Development Requirements

Introduction

1. Before the Insurance Authority (“IA”) took over the regulation of insurance intermediaries from the three Self-Regulatory Organizations (“SROs”)¹ on 23 September 2019, each SRO had different continuing professional development (“CPD”) cut-off dates and penalty guidelines for non-compliance with their CPD requirements.
2. The IA has standardized, modernized and updated the CPD requirements and issued the “GL24: Guideline on Continuing Professional Development for Licensed Insurance Intermediaries” (“CPD Guideline”) under section 133 of the Insurance Ordinance (Cap. 41) (“Ordinance”) on 1 August 2019 to provide general guidance on CPD for licensed insurance intermediaries.
3. The main new features of the CPD Guideline are:
 - (a) the assessment period is standardized to run from 1 August each year to 31 July the following year;
 - (b) E-learning activities are accepted as Qualified CPD Activities² up to a maximum of 5 CPD hours per assessment period; and
 - (c) with effect from 1 August 2021 to 31 July 2022, the minimum number of CPD hours for individual licensees per year increases from 10 to 15 hours, including a minimum of 3 CPD hours on “Ethics or Regulations” (except for licensed Technical Representatives (Agent) who carry on regulated activities in restricted scope travel business, for whom the minimum number of CPD hours remains at 3 and they are not required to attain CPD hours on “Ethics or Regulations”).
4. The CPD Guideline took effect from 23 September 2019 with a transitional period running until 31 July 2021 (“**Transitional Period**”), which is in turn made up of two assessment periods namely, 23 September 2019 to 31 July 2020 (“**1st Assessment Period**”) and 1 August 2020 to 31 July 2021 (“**2nd Assessment Period**”). Individual licensees are required to complete a minimum of 10 CPD hours per Assessment Period subject to certain variations depending on their registration date with the respective SRO (per the CPD Guideline, the circular entitled “*Compliance with CPD Requirements under the New Regulatory Regime for Insurance Intermediaries – Additional Facilitative Measures*” and the “*Frequently Asked Questions on the CPD Requirements*” issued by the IA on 12 June 2020).

¹ Namely (1) Insurance Agents Registration Board set up by The Hong Kong Federation of Insurers; (2) The Hong Kong Confederation of Insurance Brokers; and (3) Professional Insurance Brokers Association.

² As defined in Annex 1 of the CPD Guideline.

5. The circular dated 12 June 2020 announced a merger of the 1st and the 2nd Assessment Periods and an increase in the cap of CPD hours for e-learning activities from 5 to 7 CPD hours in respect of each period, rendering individual licensees compliant if they could earn sufficient CPD hours required for the two periods by 31 July 2021.

Relevant Considerations

6. Paragraph 1.4 of the CPD Guideline stipulates that failure to comply with CPD requirements may adversely affect the fitness and properness of a licensee, and the IA may take disciplinary action against that licensee.
7. As policyholders rely heavily on the advice and expertise of licensed insurance intermediaries, it is imperative that licensees are equipped with updated skills and knowledge. If a licensee fails to attain the required CPD hours it may adversely affect his/her fitness and properness to carry on regulated activities. The larger the shortfall and the longer it takes to make good this shortfall, the more seriously policyholders will be prejudiced.
8. This document sets out two penalty frameworks for non-compliance of CPD requirements by individual licensees, one for the Transitional Period (i.e. 23 September 2019 to 31 July 2021) and one for periods after the Transitional Period. The frameworks outline the penalties for failure to complete the requisite CPD hours, failure to submit or late submission of the completed CPD Declaration Form and providing false information therein. These frameworks reflect how CPD breaches undermine the trust that policyholders place on the fitness and properness of a licensed insurance intermediary. The frameworks are summarized in the **Appendix**.
9. The proposed penalties are maximum levels for the corresponding CPD breaches and should be applied with due regard to the circumstances of each case. Penalties laid down for the Transitional Period have taken into account the unique challenges posed by the COVID-19 pandemic.

(1) Proposed penalties for CPD breaches in the Transitional Period from 23 September 2019 to 31 July 2021 for individual licensees including Technical Representatives (Agent) carrying on restricted scope travel business

(A) Insufficient CPD hours

(a)	Shortfall of no more than 50% by 31 July 2021	<p>The licensee has an opportunity to rectify the shortfall by 31 October 2021 (i.e. within 3 months from the end of the 2nd Assessment Period on 31 July 2021). Failure to do so will give rise to a fine of \$600 per hour of shortfall and a requirement to rectify the shortfall within 2 months by 31 December 2021.</p> <p>The licensee must be able to produce satisfactory record of attendance at Qualified CPD Activities to prove that the shortfall has been rectified and/or evidence that the fine has been paid.</p> <p>If the licensee fails to rectify the shortfall by the deadline on 31 December 2021 and/or pay the fine within 2 months from the date on which it is imposed, his/her licence will be suspended for a minimum period of 3 months until the shortfall is rectified and/or the fine is paid³. If the shortfall is still not rectified and/or the fine remains unpaid within the initial 3 months of the suspension period, his/her licence may be revoked.</p>
(b)	Shortfall of more than 50% by 31 July 2021	<p>The licensee will be fined \$600 per hour of shortfall by the end of the 2nd Assessment Period on 31 July 2021 and required to rectify the shortfall within 3 months i.e. by 31 October 2021.</p> <p>If the licensee still fails to rectify the shortfall by the deadline on 31 October 2021 and/or pay the fine within 2 months from the date on which it is imposed, his/her licence will be suspended for a minimum of 3 months until the shortfall is rectified or the fine is paid⁴. If the shortfall is still not rectified and/or the fine remains unpaid within the initial 3 months of the suspension period, his/her licence may be revoked.</p> <p>The licensee must be able to produce satisfactory record of attendance at Qualified CPD Activities to prove that the shortfall has been rectified and/or evidence that the fine has been paid.</p>

³ The licence will be suspended until the shortfall is rectified, the fine is paid or upon the expiry of 3 months, whichever is the later.

(B) Failure to submit or late in submitting the completed CPD Declaration Form

- (a) Paragraph 3.6 of the CPD Guideline stipulates that individual licensees should report on the Qualified CPD Activities which they have attended in each Assessment Period on a CPD Declaration Form prescribed by the IA no later than 2 months after the expiry date of each Assessment Period, i.e. by 30 September of that year. The circular entitled “*Continuing Professional Development (“CPD”) Requirements – CPD Compliance Reporting Procedures for Assessment Periods 2019/20 and 2020/21*” issued by the IA on 1 April 2021 further requires individual licensees to report their CPD compliance for the 1st and the 2nd Assessment Periods via a completed CPD Declaration Form to their appointing principals by 30 September 2021. Their appointing principals will then report to the IA by 31 October 2021.
- (b) If a licensee fails to submit or is late in submitting a completed CPD Declaration Form to his/her appointing principal by 30 September 2021, the IA will issue a reminder letter compelling the licensee to submit the completed CPD Declaration Form with supporting evidence of Qualified CPD Activities attended by him/her within 14 days.
- (c) If, following the reminder, the licensee replies to the IA with a shortfall in CPD hours but is unable to provide a reasonable excuse for his/her failure to submit the completed CPD Declaration Form or to submit it on time, paragraph (1)(A)(b) above will apply. If the licensee does provide a reasonable excuse, he/she will be required to rectify the shortfall in accordance with paragraph (1)(A)(a) or (b) above.
- (d) If the licensee fails, without reasonable excuse, to respond to the reminder or to provide satisfactory record of attendance at Qualified CPD Activities, this will be taken as a case of non-compliance with the CPD requirements and a reasonable cause to believe that he/she is not fit and proper to be licensed as an insurance intermediary. The IA may invoke its powers under section 64ZZH of the Ordinance to commence an investigation and demand more detailed information. If the licensee fails, without reasonable excuse, to comply with such a request, he/she will contravene sections 64ZZH(6)(d) and (e) of the Ordinance, which constitutes a criminal offence and may also give rise to disciplinary action under section 81 of the Ordinance.
- (e) The IA may randomly check and verify the record of attendance provided by a licensee, whose fitness and properness will be called into question if he/she refuses to provide the supporting documents. As a result, an investigation as described in paragraph (1)(B)(d) above may be launched.

(C) Provision of false information in the completed CPD Declaration Form

- (a) Provision of false information in the completed CPD Declaration Form covers scenarios such as a licensee making a false claim as to the number of CPD hours he/she acquired during the relevant Assessment Period, a licensee falsely purporting that he/she has met the stipulated requirements by attending Qualified CPD Activities, or a licensee seeking to claim CPD hours from non-Qualified CPD Activities.

- (b) The fitness and properness of the licensee may be called into question if he/she provides false information in the completed CPD Declaration Form. If there is sufficient evidence to substantiate that false information was provided without a reasonable excuse, the licence of an insurance intermediary may be revoked and he/she will be barred from applying for a new licence within 12 months.

(2) Proposed penalties for CPD Breaches after the Transitional Period for individual licensees including Technical Representatives (Agent) carrying on restricted scope travel business

(A) Insufficient CPD hours

(a)	<ul style="list-style-type: none"> ▪ Shortfall of less than 8 hours except Technical Representatives (Agent) licensed to carry on restricted scope travel business. ▪ Shortfall of no more than 3 hours for Technical Representatives (Agent) licensed to carry on restricted scope travel business. 	<p>The licensee will be fined \$600 per hour of shortfall as of 31 July and has to rectify the shortfall within 3 months from the end of the assessment period i.e. by 31 October.</p> <p>The licensee must produce satisfactory record of attendance at Qualified CPD Activities to prove that the shortfall has been rectified and/or the fine is paid.</p> <p>If the licensee fails to rectify the shortfall by 31 October and/or pay the fine within 2 months from the date on which it is imposed, his/her licence will be suspended for a minimum period of 3 months until the shortfall is rectified and/or the fine is paid⁴.</p> <p>If the licensee still fails to rectify the shortfall and/or to pay the fine within the initial 3 months of the suspension period, his/her licence may be revoked.</p>
(b)	<p>Shortfall of 8 hours or more except Technical Representatives (Agent) licensed to carry on restricted scope travel business.</p>	<p>The licensee will be fined \$600 per hour of shortfall as of 31 July and has to rectify the shortfall within 3 months from the end of the assessment period i.e. by 31 October. His/her licence will also be suspended for a minimum period of 3 months until the shortfall is rectified and/or the fine is paid⁵.</p> <p>The licensee must produce satisfactory record of attendance at Qualified CPD Activities to prove that the shortfall has been rectified and/or the fine is paid.</p> <p>If the licensee still fails to rectify the shortfall and/or pay the fine within the initial 3 months of the suspension period, his/her licence may be revoked.</p>

⁴ The licence will be suspended until the shortfall is rectified, the fine is paid or upon the expiry of 3 months, whichever is the later.

⁵ Ditto

(B) Failure to submit or late in submitting the completed CPD Declaration Form

- (a) Paragraph 3.6 of the CPD Guideline stipulates that individual licensees should report on the Qualified CPD Activities which they have attended in each Assessment Period on a CPD Declaration Form prescribed by the IA no later than 2 months after the expiry date of each Assessment Period, i.e. by 30 September of that year. If a licensee fails to submit or is late in submitting the CPD Declaration Form, a reminder letter will be issued by the IA compelling a reply within 14 days.
- (b) If, following the reminder, the licensee replies to the IA with a shortfall in CPD hours but is unable to provide a reasonable excuse for his/her failure to submit the completed CPD Declaration Form or to submit it on time, paragraph (2)(A)(b) above will apply. If the licensee does provide a reasonable excuse, he/she will be required to rectify the shortfall in accordance with paragraph (2)(A)(a) or (b) above.
- (c) If the licensee fails, without reasonable excuse, to respond to the reminder or to provide satisfactory record of attendance at Qualified CPD Activities, this will be taken as a case of non-compliance with the CPD requirements and a reasonable cause to believe that he/she is not fit and proper to be licensed as an insurance intermediary. The IA may invoke its powers under section 64ZZH of the Ordinance to commence an investigation and demand more detailed information. If the licensee fails, without reasonable excuse, to comply with such a request, he/she will contravene sections 64ZZH(6)(d) and (e) of the Ordinance, which constitutes a criminal offence and may also give rise to disciplinary action under section 81 of the Ordinance.
- (d) The IA may randomly check and verify the record of attendance provided by a licensee, whose fitness and properness will be called into question if he/she refuses to provide the supporting documents. As a result, an investigation as described in paragraph (2)(B)(c) above may be launched.

(C) Provision of false information in the CPD Declaration Form

- (a) Provision of false information in the completed CPD Declaration Form covers scenarios such as a licensee making false claim on the number of CPD hours he/she acquired during the relevant Assessment Period, a licensee falsely purporting that he/she has met the stipulated requirements by attending Qualified CPD Activities, or a licensee seeking to claim CPD hours from non-Qualified CPD Activities.
- (b) The fitness and properness of the licensee may be called into question if he/she provides false information in the completed CPD Declaration Form. If there is sufficient evidence to substantiate that such false information was provided without a reasonable excuse, the licence of an insurance intermediary may be revoked and he/she will be barred from applying for a new licence within 12 months.

Summary of Penalty Frameworks

CPD breaches for the two assessment periods ending on 31 July 2021			
Shortfall	Penalties		
No more than 50% of required hours	Allowed an opportunity to rectify the shortfall by 31 October 2021. Failure to do so will give rise to a fine of \$600 per hour of shortfall and the shortfall must still be rectified by 31 December 2021.	Failure to rectify the shortfall by 31 December 2021 and/or to pay the fine will lead to a minimum suspension of 3 months (to continue thereafter until the shortfall is rectified and/or the fine is paid).	If the shortfall is still not rectified and/or the fine remains unpaid after the 3-month suspension, licence may be revoked.
More than 50% of required hours	A fine of \$600 per hour of shortfall will be imposed, plus the shortfall must still be rectified by 31 October.	Failure to rectify the shortfall by 31 October 2021 and/or to pay the fine will lead to a minimum suspension of 3 months (to continue thereafter until the shortfall is rectified and/or the fine is paid).	If the shortfall is still not rectified and/or the fine remains unpaid after the 3-month suspension, licence may be revoked.

CPD breaches for the assessment period ending 31 July 2022 and thereafter			
Shortfall	Penalties		
Shortfall is less than 8 hours. Any shortfall for TR(Agents) carrying on restricted scope travel business	A fine of \$600 per hour of shortfall will be imposed, plus the shortfall must still be rectified by 31 October.	Failure to rectify the shortfall by 31 October 2022 and/or to pay the fine will lead to a minimum suspension of 3 months (to continue thereafter until the shortfall is rectified and/or the fine is paid).	If the shortfall is still not rectified and/or the fine remains unpaid after the 3-month suspension, licence may be revoked.
Shortfall is 8 hours or more	A fine of \$600 per hour of shortfall will be imposed as well as a minimum suspension of 3 months (which will continue until the shortfall is rectified or the fine is paid).	If the shortfall is still not rectified and/or the fine remains unpaid after the suspension of 3 months, licence may be revoked.	

Apart from the above, failure by a licensee to submit the completed CPD Declaration Form may result in investigation by the IA, while provision of false information therein may result in revocation of licence and prohibition to apply for a new licence within 12 months.