

To: Chief Executives of all authorized insurers

Dear Sirs,

**GL4: Guideline on ‘Fit and Proper’ Criteria under the Insurance Ordinance (Cap. 41)**

**GL18: Guideline on Exercising Power to Impose Pecuniary Penalty in respect of Authorized Insurers under the Insurance Ordinance (Cap. 41)**  
**Existing Guidance Notes 1 to 3A and 5 to 17**

We have carefully considered comments from The Hong Kong Federation of Insurers on the draft GL4 and GL18. We enclose a copy of the finalized GL4 and GL18, which have taken into account the relevant comments. Both GL4 and GL18 will be published in Gazette shortly and they will be effective from 26 June 2017.

**GL4**

New section 14A added to the Insurance Ordinance (Cap. 41) (the “Ordinance”)<sup>1</sup> by section 31 of the Insurance Companies (Amendment) Ordinance 2015 (“IC(A)O”) will become effective on 26 June 2017. Section 14A sets out a list of matters that the Insurance Authority (the “IA”) must have regard to when determining whether a person is ‘fit and proper’. This new section is applicable to controllers, directors, key persons in control functions and appointed actuaries of the authorized insurers.

GL4 sets out the minimum standard of suitability requirements that are applicable to persons holding the abovementioned positions of an authorized insurer and the general guiding principles of the IA in assessing the suitability of such persons in fulfilling their roles in an authorized insurer with reference to the Insurance Core Principle 5 promulgated by the International Association of Insurance Supervisors.

**Transitional Arrangements for Key Persons in Control Functions**

It is noted that some authorized insurers may currently maintain one or more control functions and certain individuals may have been responsible for one or more of these control functions prior to 26 June 2017. Some of these individuals may be regarded as ‘key persons in control functions’ as defined in section 13AE(12) of the Ordinance on and from 26 June 2017.

In order to facilitate a smooth transition and implementation of section 13AE, the IA shall introduce the following transitional arrangements on 26 June 2017:

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<sup>1</sup> The Insurance Companies Ordinance (Cap. 41) will be renamed as the Insurance Ordinance (Cap. 41) pursuant to section 4 of the IC(A)O on 26 June 2017.

1. For individuals who are responsible for any of the control functions of an authorized insurer before 26 June 2017 and will fall under the definition of ‘key persons in control functions’ under section 13AE(12) on and from 26 June 2017 (the “Appointed Individuals”), the relevant insurers are required to submit applications for the IA’s approval of their proposed appointments on 26 June 2017. Such applications must be submitted to the IA during the period from 26 June 2017 to 30 September 2017.
2. Particulars of the Appointed Individuals should be provided in the prescribed Form A1 (as specified in Schedule 4 to the Ordinance).
3. Application fees (prevailing fee of HK\$18,000 for each application as specified in the Insurance (Prescribed Fees) Regulation) specified in section 13AE(2)(b) will be waived in respect to applications of the Appointed Individuals.
4. The IA will consider and determine the applications submitted in respect of the Appointed Individuals in accordance with the criteria set out in section 14A of the Ordinance and GL4, and will notify the insurers of the application results as soon as practicable.

Please note that the above transitional arrangements apply to the Appointed Individuals only. If an authorized insurer wishes to appoint an individual as a key person in any control function(s) on or after 26 June 2017, it must obtain the IA’s prior approval of the proposed appointment pursuant to section 13AE and the application fees will apply.

For controllers, directors and appointed actuaries of authorized insurers who have already been duly appointed prior to 26 June 2017 in accordance with the relevant requirements under the existing Insurance Companies Ordinance (Cap. 41), they are not required to seek the IA’s re-approval of their existing appointments on 26 June 2017. However, if an Appointed Individual assumes a dual role of both an appointed actuary and a key person in the actuarial function of an authorized insurer, the IA’s approval will still be required in respect of his/her service as a key person in the actuarial function of the insurer in accordance with the transitional arrangements stipulated above.

### **GL18**

The IA is empowered to impose pecuniary penalty on authorized insurers under the Ordinance. Section 41R of the Ordinance is added by section 58 of the IC(A)O which provides that, in exercising the power to impose pecuniary penalty, the IA shall have regard to the guidelines so published. GL18 is prepared and issued by the IA in view of this new section to set out the matters that the IA may consider when exercising the power to impose pecuniary penalty.

### **Existing Guidance Notes 1 to 3A and 5 to 17**

Pursuant to the IC(A)O, all existing Guidance Notes issued by the Office of the Commissioner of Insurance (“OCI”) will continue to have effect on or after 26 June

2017 as if they were issued by the IA. The IA has taken this opportunity to make technical amendments to the existing Guidance Notes, for example, to remove obsolete clauses and make textual amendments to align with the terminology used in the IC(A)O (e.g. amending references to the “Insurance Companies Ordinance (Cap. 41)” to the “Insurance Ordinance (Cap. 41)”). Further, all existing Guidance Notes will be renamed as Guidelines and the abbreviation will be amended from “GN” to “GL” accordingly to align with the terminology used in the IC(A)O. All the updated Guidelines will also be published in Gazette shortly. We attach herewith a full set of GL1 to GL18 for your information.

Should you have any enquiries regarding the content of this letter, please contact your case officers.

Yours faithfully,

(Raymond Tam)  
Executive Director  
For and on behalf of the  
**Provisional Insurance Authority**

Encls.

c.c. Chairman, The Hong Kong Federation of Insurers