



CODE OF CONDUCT FOR LICENSED INSURANCE AGENTS

持牌保險代理人操守守則

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Preface

There are two types of licensed insurance intermediary in Hong Kong: licensed insurance agents and licensed insurance brokers. Both play an important role in the Hong Kong insurance industry, serving as a vital conduit between the public and the insurance sector. The Code of Conduct in the following pages is for Licensed Insurance Agents. It sets out fundamental principles of professional conduct which buyers of insurance are entitled to expect in their dealings with licensed insurance agents, reinforcing the bedrock of trust which serves as the foundation for a healthy, competitive and efficient insurance industry.

The Code of Conduct does not operate in isolation. It is part of the totality of the duties and obligations which apply to licensed insurance agents in their carrying on of regulated activities under common law (including contract law), the Insurance Ordinance (Cap. 41), other Ordinances and rules, regulations, codes and guidelines, including those administered or issued by the Insurance Authority. The context for the Code of Conduct, within this wider framework, is outlined below.

Types of licensed insurance agents

The licensing regime under the Insurance Ordinance prescribes three types of licensed insurance agents: licensed individual insurance agents, licensed insurance agencies and licensed technical representatives (agent).

Licensed individual insurance agents and licensed insurance agencies act as agents of the authorized insurers which appoint them (i.e. the insurers are their principals). In this capacity, they promote, advise on and arrange insurance policies offered by their appointing insurers.

Licensed technical representatives (agent) act as agents of the licensed insurance agencies which appoint them (i.e. the agencies are their principals). In this capacity, they promote, advise on and arrange insurance policies offered by the appointing insurers of their agencies.

Licensed insurance agents and the principal-agent relationship

The role licensed insurance agents perform on behalf of their principals is founded on the principal-agent relationship at common law. Insurance agents owe their principals contractual and fiduciary obligations. In return, principals remunerate their agents and are vicariously liable for the actions taken by their agents within the scope of their authority. It is in the interests of principals, therefore, to implement adequate controls and procedures to administer their insurance agents. These controls and procedures can also serve as effective and important measures for policy holder protection from a regulatory perspective. The Code of Conduct reflects this alignment, by including provisions which require compliance by licensed insurance agents with the requirements set out by their principals.

The Insurance Ordinance also has provisions relating to the principal-agent relationship between insurers and their licensed individual insurance agents and licensed insurance agencies. Primarily, the vicarious liability of insurers for the actions of their appointed licensed individual insurance agents and licensed insurance agencies at common law, is reinforced by section 68 of the Insurance Ordinance. Secondly, the number of appointing insurers, for which a licensed individual insurance agent or licensed insurance agency can represent, is limited to a cap¹ set under the Insurance Ordinance. Within this cap, whether a licensed individual insurance agent or licensed insurance agency can accept an appointment by another insurer, and the duties and obligations the agent or agency owes to each respective insurer, remain matters governed by common law principles and the provisions in their respective agency agreements.

Regulation of licensed insurance agents in their dealings with policy holders or potential policy holders when carrying on regulated activities

The Insurance Ordinance (and rules, regulations, codes and guidelines administered or issued by the Insurance Authority) also includes requirements, which focus on the interactions which licensed insurance agents have with policy holders and potential policy holders when carrying on regulated activities. These requirements include:

- the statutory conduct requirements, with which licensed insurance agents must comply in carrying on regulated activities, in sections 90 and 91 of the Insurance Ordinance;
- the relevant requirements set out in the rules, regulations, codes and guidelines made or issued under the Insurance Ordinance; and
- the general principles, standards and practices set out in the Code of Conduct.

The aims of the Code of Conduct

Primarily, the Code of Conduct promulgates principles of conduct and related standards and practices with which licensed insurance agents are ordinarily expected to comply in carrying on regulated activities. These principles, standards and practices serve as the minimum standards of professionalism to be met by licensed insurance agents when carrying on regulated activities.

Secondly, the Code of Conduct supplements the duties and obligations which licensed insurance agents owe their principals (arising from their principal-agent relationship) by providing that agents should comply with the requirements set out by their principals regarding their carrying on of regulated activities.

¹ Section 64I of the Insurance Ordinance sets out the restriction in relation to the prescribed maximum number of appointing insurers which licensed individual insurance agents and licensed insurance agencies can represent. Section 64L of the Insurance Ordinance limits licensed technical representatives (agent) to serving only one licensed insurance agency in that capacity (hence, in effect, they are also subject to the licensed insurance agency's cap on the number of appointing insurers the agency can represent).

Thirdly, the Code of Conduct aims, in certain instances, to inform and explain the statutory conduct requirements in sections 90 and 91 (and in any rules made by the Insurance Authority under section 94) of the Insurance Ordinance with which licensed insurance agents are required to comply. For example, section 90(a) of the Insurance Ordinance requires a licensed insurance agent, when carrying on a regulated activity, to act in the best interests of policy holders and potential policy holders. The Code of Conduct (in particular the standards and practices under General Principle 2) provides guidance on the conduct requirements a licensed insurance agent should adopt in order to meet the section 90(a) requirements.

The Code of Conduct for Licensed Insurance Agents is set out in the following pages.

Part A Introduction to this Code

1. Framework of this Code

- 1.1 This Code of Conduct for Licensed Insurance Agents (this “Code”) is issued and published by the Insurance Authority (“IA”) pursuant to section 95 of the Insurance Ordinance (Cap. 41) (“the Ordinance”).
- 1.2 This Code sets out, in the opening section of Part C of this Code, a series of general principles which the IA believes to be fundamental principles of conduct which licensed insurance agents should adopt and follow when carrying on regulated activities (the “General Principles”). Part C goes on to provide further explanation of each General Principle and includes standards and practices relating to each General Principle (the “Standards and Practices”). The Standards and Practices are either stated specifically in this Code or are incorporated into this Code by reference to other guidelines or codes issued by the IA or other regulators. Together, the General Principles, Standards and Practices in this Code collectively serve as guidance on the practices and standards which licensed insurance agents are ordinarily expected to adopt in carrying on regulated activities.
- 1.3 The section in Part C of this Code on “Corporate Governance and Controls and Procedures” applies only to licensed insurance agencies. This section sets out guidance on the practices and standards for corporate governance, controls and procedures which should be adopted by a licensed insurance agency in relation to the regulated activities carried on by the agency.
- 1.4 Neither the Standards and Practices nor the corporate governance, controls and procedures in this Code are exhaustive. Further, certain Standards and Practices are specifically stated as being only applicable to regulated advice and not other regulated activities.
- 1.5 Section 90 of the Ordinance stipulates the conduct requirements which licensed insurance agents are expected to satisfy when carrying on regulated activities. For guidance, each General Principle in this Code identifies the specific Statutory Conduct Requirement to which the General Principle (and its related Standards and Practices) is most relevant. This should not, however, be treated as an exact match. Many of the General Principles are relevant across several different Statutory Conduct Requirements. As such, licensed insurance agents should look to adopt the General Principles as a whole in their carrying on of regulated activities.
- 1.6 Section 91 of the Ordinance stipulates requirements in relation to the proper controls and procedures which a licensed insurance agency must establish (and which its responsible officer must use his best endeavours to establish) for securing compliance with the conduct requirements in section 90 by its licensed technical representatives (agent). The section of this Code on “Corporate

Governance and Controls and Procedures” provides guidance as to the controls and procedures an agency should implement in relation to section 91 of the Ordinance.

- 1.7 In formulating the General Principles, Standards and Practices, corporate governance and controls and procedures in this Code, full account has been taken of the role that licensed insurance agents play as agents acting for authorized insurers or licensed insurance agencies, as the case may be.

2. Persons to whom this Code applies

- 2.1 This Code applies to all licensed insurance agents as defined in the Ordinance, namely licensed individual insurance agents, licensed insurance agencies and licensed technical representatives (agent). A reference to “licensed insurance agents” in this Code, therefore, includes “licensed individual insurance agents”, “licensed insurance agencies” and “licensed technical representatives (agent)”.
- 2.2 Responsible officers and senior management of licensed insurance agencies should make specific reference to the section of this Code on “Corporate Governance and Controls and Procedures” which sets out their responsibilities relating to the corporate governance, controls and procedures that need to be established and maintained in relation to the carrying on of regulated activities by the agencies.

3. This Code and other Guidelines issued by the IA (and requirements of other regulatory authorities)

- 3.1 This Code is of universal application to the regulated activities carried on by licensed insurance agents in relation to both general and life insurance policies and is not a replacement for other codes and guidelines issued by the IA. This Code needs to be complied with in addition to the applicable requirements set out in all other codes and guidelines issued by the IA. For example, in addition to the provisions in this Code, licensed insurance agents need to comply with requirements which apply to them in the guidelines issued by the IA on anti-money laundering and counter-terrorist financing and (specifically relating to life insurance policies) on financial needs analysis, cooling-off period, investment-linked assurance scheme products, gifts and policy replacement.
- 3.2 In addition (as denoted in Standard and Practice 1.2) licensed insurance agents should comply with requirements of other regulatory authorities which apply to the agents regarding the regulated activities they carry on. In this respect, “other regulatory authorities” (or “other relevant regulatory authorities”) as referenced in this Code refers to regulatory authorities other than the IA which have jurisdiction over matters relating to the carrying on of regulated activities by licensed insurance agents, such as the Monetary Authority (for example, in the case of a licensed insurance agency which is an authorized institution) or the Privacy Commissioner for Personal Data (in relation to personal data collected or used

by the agent in carrying on regulated activities).

4. Status of this Code and effect of a breach of this Code

4.1 A failure by a licensed insurance agent to comply with this Code shall not by itself render the agent liable to any judicial or other proceedings (section 95(5) of the Ordinance).

4.2 The IA may, however, take guidance from this Code in considering:

- (a) whether there has been an act or omission relating to the carrying on of any regulated activity, which in the IA's opinion is or is likely to be prejudicial to the interests of policy holders or potential policy holders or the public interest (section 80(1) of the Ordinance);
- (b) whether a licensed insurance agent is fit and proper to remain licensed (section 95(6) of the Ordinance);
- (c) whether a licensed insurance agent or responsible officer of a licensed insurance agency has satisfied the Statutory Conduct Requirements; or
- (d) any other matters under the Ordinance to which this Code may be relevant.

4.3 The IA recognizes that licensed insurance agents differ in scale and complexity of business, that they utilize different channels to communicate and interface with policy holders and potential policy holders and that there may be different ways in which the General Principles, Standards and Practices, corporate governance and controls and procedures may be met or implemented. The IA will therefore take account of the relevant context, facts and impact of any matter in considering whether the provisions of this Code have been satisfied and, if not, whether to take any disciplinary action.

4.4 This Code does not have the force of law, in that it is not subsidiary legislation, and should not be interpreted in a way that would override the provision of any law. However, in any proceedings under the Ordinance before a court, this Code is admissible in evidence, and if a provision in this 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 with this Code (section 95(7) of the Ordinance).

4.5 This Code should be read in conjunction with the relevant provisions of the Ordinance, the relevant subsidiary legislation as well as the relevant codes and guidelines issued by the IA. The matters set forth herein do not constitute legal advice or create additional legal obligations beyond those contained in the Ordinance.

4.6 The IA may from time to time amend the whole or any part of this Code.

4.7 This Code comes into effect on 23 September 2019.

Part B Interpretation

The defined terms in this section shall bear their stated meaning in this Code. Other expressions as used in this Code shall, except where expressly defined or stated otherwise in this Code, have the same meanings as in the Ordinance in which the expressions are referred to or used.

Definitions

For the purpose of this Code,

“appointing agency”, in relation to a licensed technical representative (agent), means the licensed insurance agency which appoints the licensed technical representative (agent) as its agent to carry on regulated activities;

“appointing insurer”, in relation to a licensed individual insurance agent or a licensed insurance agency, means the authorized insurer which appoints the licensed individual insurance agent or licensed insurance agency (as applicable) as its agent to carry on regulated activities;

“client” in this Code bears the same meaning as policy holder and potential policy holder in the Ordinance;

“client’s circumstances”, in relation to regulated advice provided by a licensed insurance agent to a client, means the objectives, needs and priorities of and other information from or about the client which a reasonable licensed insurance agent would need to take into account in order to provide such advice. “Priorities” in this context means the stated priorities of the client in seeking such insurance and any particular risks or matters which are specifically brought to the attention of the agent by the client as being priorities which the agent should consider when recommending an insurance policy to the client. As guidance, examples of client’s circumstances include:

- a) where the agent is giving regulated advice in relation to the making of an application or proposal for a life insurance policy, the needs, financial situation, ability and willingness to pay premium and other information which the agent is required to collect in a financial needs analysis assessment; and
- b) where the agent is giving regulated advice in relation to the making of an application or proposal for a general insurance policy, the property, liability or other risks for which the client is seeking insurance coverage, the amount of and the period of coverage required;

“general insurance policy” means a contract of insurance which is classed as general business under the Ordinance;

“insurance product” or **“insurance policy”** means a contract of insurance. The terms

are used interchangeably throughout this Code;

“life insurance policy” means a contract of insurance which is classed as long term business under the Ordinance;

“minor offence” means an offence punishable by a fixed penalty under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237), the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240), the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570), the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) or the Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap. 611), or an offence of similar nature committed in a place outside Hong Kong;

“registered name”, in relation to a company, means the name under which the company is registered under the Companies Ordinance (Cap. 622);

“senior management”, in relation to a licensed insurance agency means those persons who perform the functions of managing the regulated activities carried on by the agency. The exact composition of the senior management will depend on the size of the agency, its organizational structure and the authority of the persons concerned. Whether a person is part of the senior management will depend on the actual functions and duties of the person and not simply the person’s position and title. The following examples are provided, solely as guidance for determining persons in senior management:

- a) persons responsible for overseeing the overall operations and functions of the regulated activities carried on by the agency, and who report directly to the board or the responsible officer of the agency, are likely to be considered part of the senior management; and
- b) in large agencies, a person responsible for oversight of a business line (life, general, commercial, consumer etc.) or function (operations, compliance etc.) related to the regulated activities carried on by the agency, is also likely to be considered part of the senior management;

“Statutory Conduct Requirements” means the conduct requirements applicable to licensed insurance agents and/or their responsible officers as identified in sections 90 and 91 of the Ordinance and the standards and practices specified in any rules made by the IA under section 94 of the Ordinance with which licensed insurance agents are required to comply.

A reference to “should” in this Code in relation an action, denotes that the licensed insurance agent is required to take the action in order to satisfy the relevant General Principle, Standard and Practice, corporate governance and control and procedure.

A reference in this Code to “it” or “its” in relation to a licensed insurance agent shall, except where the context otherwise specifies, be construed as including a reference to “he” or “him” or “his” and “she” or “her” or “hers” and vice versa, as the case may be. Where the context so permits or requires, words importing the singular number include the plural and vice versa.

Part C General Principles

The General Principles of this Code are set out below. They take account of the role licensed insurance agents play as agents acting for authorized insurers and serve as principles of conduct to ensure clients are treated fairly and their interests are protected. They also take account of the Insurance Core Principles (ICPs) issued by the International Association of Insurance Supervisors and in particular ICPs 18 and 19 which focus on principles which apply to licensed insurance intermediaries and their conduct of business.

GP 1. Honesty and Integrity

A licensed insurance agent should act honestly, ethically and with integrity.

GP 2. Acting Fairly and in the Client's Best Interests

A licensed insurance agent should always treat clients fairly and act in their best interests.

GP 3. Exercising Care, Skill and Diligence

A licensed insurance agent should act with due care, skill and diligence.

GP 4. Competence to Advise

A licensed insurance agent should possess appropriate levels of professional knowledge and experience and only carry on regulated activities in respect of which the agent has the required competence.

GP 5. Disclosure of Information

A licensed insurance agent should provide clients with accurate and adequate information to enable them to make informed decisions.

GP 6. Suitability of Advice

A licensed insurance agent's regulated advice should be suitable for the client taking into account the client's circumstances.

GP 7. Conflicts of Interest

A licensed insurance agent should use best endeavours to avoid conflicts of interests and when such conflicts cannot be avoided, the agent should manage them with appropriate disclosure to ensure clients are treated fairly at all times.

GP 8. Client Assets

A licensed insurance agent should have sufficient safeguards in place to protect client assets received by the agent or which are in the agent's possession.

Section I

General Principle 1 – Honesty and Integrity

A licensed insurance agent should act honestly, ethically and with integrity.

Related Statutory Conduct Requirement: Section 90(a) of the Ordinance – “*when carrying on a regulated activity, a licensed insurance intermediary must act honestly, fairly, in the best interests of the policy holder concerned or the potential policy holder concerned, and with integrity.*”

Standards and Practices

1.1 Accurate representations and presentation

- (a) A licensed insurance agent should not mislead or deceive a client and should ensure that any representation made or information provided to a client about any insurers, insurance intermediaries or insurance products is accurate and not misleading or deceptive.
- (b) A licensed insurance agent should not make inaccurate, misleading or deceptive statements or comparisons to induce a client to enter into an insurance policy or replace an existing insurance policy with another insurance policy.
- (c) When advertising, marketing or promoting an insurance product, a licensed insurance agent should only use materials supplied or approved by its appointing insurer or appointing agency (as applicable).
- (d) A licensed insurance agency should not use a name (including a registered name, trade name or brand name) that is likely to deceive, mislead or confuse the client. It should not use a name which may lead the public to believe that it is closely affiliated with an insurer, another insurance intermediary, or a well-known entity unless there is such close affiliation or it has the authority to use the name.

1.2 Compliance

- (a) A licensed insurance agent should comply with:
 - (i) all laws which apply to the agent;
 - (ii) all rules, regulations, codes and guidelines administered or issued by the IA which apply to the agent; and
 - (iii) all requirements of other regulatory authorities which apply to the agent in connection with the regulated activities carried on by the agent.
- (b) A licensed insurance agent should cooperate with the IA and all other relevant regulatory authorities on any matters concerning the regulated activities carried on by the agent.
- (c) A licensed insurance agent should comply with the duties under contract and at law in relation to the carrying on of regulated activities that it owes to its appointing

insurer or appointing agency (as applicable). These would include, without limitation, the duty owed by a licensed insurance agency or a licensed individual insurance agent to obtain prior consent from its appointing insurer before accepting an appointment by another authorized insurer. A licensed insurance agent should also comply with the policies, procedures and other applicable requirements of its appointing insurers or appointing agency (as applicable) in relation to the carrying on of regulated activities.

(d) Where a licensed insurance agent is:

- (i) wound up or adjudicated bankrupt by a court in Hong Kong or elsewhere;
- (ii) convicted of a criminal offence (other than a minor offence) in Hong Kong or elsewhere; or
- (iii) disciplined by the Monetary Authority, the Securities and Futures Commission or the Mandatory Provident Fund Schemes Authority;

the agent should, as soon as reasonably practicable, report this to:

- (i) the IA in writing; and
- (ii) its appointing insurer or appointing agency (as applicable) in a manner specified by the insurer or agency.

1.3 Harassment, Coercion or Undue Influence

A licensed insurance agent should not harass, coerce or use undue influence to induce a client to enter into a contract of insurance or to make a material decision².

1.4 Prevention of Bribery

- (a) A licensed insurance agent should be familiar with and not contravene, and should ensure that its employees are familiar with and do not contravene, the Prevention of Bribery Ordinance (Cap. 201) ("PBO") and should follow all relevant guidance issued by the Independent Commission Against Corruption concerning matters in relation to the carrying on of regulated activities by the agent.
- (b) Without limitation to 1.4(a) above, the PBO may prohibit a licensed insurance agent from:
 - (i) soliciting or accepting an advantage from a person as an inducement or reward for taking any action in relation to the affairs or business of his appointing insurer or appointing agency (as applicable), without first obtaining the requisite permission³ from the appointing insurer or appointing agency (as applicable);

² Reminding a client of a promotion which may be of interest to the client would not generally be considered to infringe Standard and Practice 1.3. Licensed insurance agents should, however, be mindful of the frequency, timing and manner of such reminders.

³ For the purposes of 1.4(b)(i) and (b)(ii) above, "requisite permission" means permission which satisfies the requirements in section 9(5) of the PBO.

- (ii) offering an advantage to another person who is an agent (as defined in the PBO) as an inducement or reward for that agent taking any action in connection with the affairs or business of that agent's principal, without the requisite permission being given by the principal.

Note: 1.4(b) is not a Standard and Practice in this Code, but serves to draw the attention of licensed insurance agents to situations where particular consideration should be given to the PBO in the carrying on of regulated activities. Please also note that (i) and (ii) above do not include all the elements of relevant offences under the PBO. Further, 1.4(b) does not constitute legal advice or any form of legal interpretation of the PBO. Full reference should be made to the PBO itself (in particular section 9 of the PBO and the definitions and meanings of the terms used therein).

Section II

General Principle 2 – Acting Fairly and in the Client’s Best Interests

A licensed insurance agent should always treat clients fairly and act in their best interests.

Related Statutory Conduct Requirement: Section 90(a) of the Ordinance – “*when carrying on a regulated activity, a licensed insurance intermediary must act honestly, fairly, in the best interests of the policy holder concerned or the potential policy holder concerned, and with integrity.*”

Standards and Practices

2.1 Acting fairly, impartially and in the client’s best interests

- (a) A licensed insurance agent, when conducting regulated activities in respect of a client, should:
- (i) treat the client fairly; and
 - (ii) give suitable, impartial and objective advice to the client which takes account of the client’s interests.
- (b) A licensed insurance agent should only recommend insurance products⁴ which best meet the client’s interests, from the range of insurance products offered by its appointing insurer or appointing agency (as applicable) which the agent is authorized to promote.

2.2 Giving fair and impartial regulated advice⁵ in the client’s best interests

- (a) A licensed insurance agent should, prior to giving regulated advice:
- (i) make such enquiries as are reasonable to obtain information relating to the client, to the extent such information is necessary in order for the agent to provide regulated advice; and
 - (ii) if it is reasonably apparent that such information is incomplete or inaccurate (e.g. if there are any inconsistencies in the information provided), make reasonable follow-up enquiries to obtain complete and accurate information.
- (b) When giving regulated advice, a licensed insurance agent should:
- (i) take into account the information it has obtained from its client, including the client’s circumstances and have a reasonable basis for the advice;

⁴ In this respect, the insurance products which best meet the client’s interests would be those that a reasonable licensed insurance agent would consider suitable for the client based on the client’s circumstances.

⁵ Giving regulated advice includes making a recommendation on an insurance product.

- (ii) when making a recommendation on an insurance product, consider what available insurance products ⁶ can reasonably meet the client's circumstances, based on the product range offered by its appointing insurer or appointing agency (as appropriate); and
 - (iii) provide the client with adequate information in order to assist the client to make an informed decision.
- (c) The regulated advice given by a licensed insurance agent to a client should be advice that a reasonable licensed insurance agent would consider suitable for the client based on the information obtained from the client, including the client's circumstances.

⁶ See footnote 14.

Section III

General Principle 3 – Exercising Care, Skill and Diligence

A licensed insurance agent should act with due care, skill and diligence.

Related Statutory Conduct Requirement: Section 90(b) of the Ordinance – “*when carrying on a regulated activity, a licensed insurance intermediary 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.*”

Standards and Practices

3.1 Meeting the standards expected of a reasonable and prudent licensed insurance agent

- (a) A licensed insurance agent should always carry on regulated activities to a reasonable standard of care and skill and with due diligence. The reasonable standard of care, in this respect, is the standard expected of a prudent professional insurance agent carrying on regulated activities.
- (b) Where a licensed insurance agent employs or engages another person to provide support to the agent in its carrying on of regulated activities, the agent should ensure the person has the integrity and competence to discharge the duties for which the person is employed or engaged and supervise that person diligently in performing such duties. In so far as the person’s work impacts the regulated activities carried on by the agent, the agent is and remains responsible for such activities.

3.2 Handling of application and claim forms

Where any application, claim or other forms which are required to be completed by a client, are being completed or submitted with the assistance of a licensed insurance agent, the agent:

- (i) should inform the client that it is the client’s responsibility to ensure the information provided in the form, or in the document(s) provided in support of the form, is accurate and complete;
- (ii) should not complete, amend or submit to the insurer concerned any such form without obtaining the client’s agreement and confirming the completeness and accuracy of the contents with the client; and
- (iii) should not submit any such form to the insurer concerned if the agent knows that the form contains inaccurate information⁷.

⁷ If a licensed insurance agent considers that information in a form may be inaccurate, but the form must be submitted to preserve the client’s right to make a claim (e.g. to comply with a condition precedent), the agent may submit the form, but should inform the insurer that it will clarify the

3.3 Carrying out client's instructions

A licensed insurance agent should take reasonable steps to carry out a client's instructions accurately and promptly, and notify the client as soon as practicable in case of any delay or failure to carry out the instruction.

3.4 Protecting a client's privacy and confidentiality

- (a) A licensed insurance agent should treat all information in relation to a client as confidential and should not use it or disclose it other than (i) for the purposes of carrying on the regulated activities for which such information has been provided, (ii) with the written consent of the client, or (iii) for the purpose of complying with any laws or regulations which apply to the agent and which require disclosure to be made.
- (b) With regards to personal data of a client that is collected by a licensed insurance agent in the course of the carrying on of regulated activities, the agent must comply with the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO") and should follow the related guidance⁸ issued by the Privacy Commissioner for Personal Data ("Privacy Commissioner") concerning collection, retention, use and security of the personal data.

3.5 Record Keeping

- (a) A licensed insurance agent should act in accordance with all requirements, policies and procedures of its appointing insurer or appointing agency (as the case may be) relating to the keeping of proper records concerning the regulated activities carried out on behalf of the appointing insurer or appointing agency (as the case may be).
- (b) Where in accordance with the record-keeping requirements of a licensed insurance agent's appointing insurer or appointing agency (as the case may be), such records are to be submitted by the agent to the appointing insurer or appointing agency (as the case may be), the agent should submit such records as soon as reasonably practicable.

information. The agent should then clarify the information with the client, so any inaccuracy can be corrected as soon as reasonably possible.

⁸ The Privacy Commissioner has issued "Guidance on the Proper Handling of Customers' Personal Data for the Insurance Industry" to assist the insurance industry to comply with the requirements under the PDPO. The Privacy Commissioner has also issued "New Guidance on Direct Marketing" to provide guidance on compliance with the requirements for direct marketing under the PDPO.

3.6 Cooling-off period

If an insurance policy contains a cooling-off period provision⁹, a licensed insurance agent should adhere to the following practices:

- (i) before the client's application for the insurance policy is signed or, in the case of an application without a signature before the application process for the insurance policy is completed, the agent should inform the client of his right to cancel the insurance policy during the cooling-off period and that the client should notify the insurer concerned during the cooling-off period if he wishes to exercise such right; and
- (ii) if the agent is obliged to deliver the insurance policy to the client, he should deliver it as soon as reasonably practicable (and keep a record of the date of such delivery) so that the client has sufficient time to review the insurance policy and reflect on his decision to purchase before expiry of the cooling-off period.

⁹ A cooling-off period provision, in relation to an insurance policy, is a provision which allows the policy holder to cancel the policy within a specified period from inception and obtain a refund.

Section IV

General Principle 4 – Competence to Advise

A licensed insurance agent should possess appropriate levels of professional knowledge and experience and only carry on regulated activities in respect of which the agent has the required competence.

Related Statutory Conduct Requirement: Section 90(c) of the Ordinance – “*when carrying on a regulated activity, a licensed insurance intermediary may advise only on matters for which the intermediary is competent to advise.*”

Standards and Practices

4.1 Product knowledge

A licensed individual insurance agent and a licensed technical representative (agent) should have a good understanding of the nature and key features of, and the risks covered by and associated with, the different types of insurance products in respect of which he may carry on regulated activities.

4.2 Being clear about the limits of their knowledge

A licensed individual insurance agent and a licensed technical representative (agent) should not carry on regulated activities on matters in relation to which he lacks the specific skills or knowledge¹⁰ necessary to carry on the relevant regulated activity. When in doubt, he should seek guidance from the appropriate personnel in the appointing insurer or the responsible officer or senior management in his appointing agency, as applicable.

¹⁰ The requisite skills or knowledge a licensed individual insurance agent or licensed technical representative (agent) is expected to have will depend on the particular situation involving the regulated activities being carried on. Factors to be considered would include the complexity (or simplicity) of the insurance product or transaction which is the subject of the regulated activities, whether the insurance product is of a specialist nature, the level of the person’s experience and the relevance of the person’s qualifications.

Section V

General Principle 5 – Disclosure of Information

A licensed insurance agent should provide clients with accurate and adequate information to enable them to make informed decisions.

Related Statutory Conduct Requirement: Section 90(e) of the Ordinance – “when carrying on a regulated activity, a licensed insurance intermediary 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.”

Standards and Practices

5.1 Disclosure in relation to identity and capacity

- (a) A licensed insurance agent should provide the following information to its client:
- (i) the name (the registered name as well as the trade name, if any) of the agent;
 - (ii) the licence number of the agent;
 - (iii) the type of licence of the agent, i.e. individual insurance agent licence, insurance agency licence or technical representative (agent) licence;
 - (iv) the name of the appointing insurer or appointing agency (as applicable) of the agent; and
 - (v) where the agent is a licensed technical representative (agent), the name of the appointing insurer of the technical representative (agent)’s appointing agency.
- (b) Where a licensed individual insurance agent or licensed insurance agency acts for more than one appointing insurer, the agent or agency as well as the licensed technical representatives (agent) appointed by the agency should clearly identify to the client which appointing insurer the agent or agency is representing in relation to each particular insurance transaction.
- (c) A licensed insurance agent should provide the information in Standard and Practice 5.1(a) and (b) above before or (if this is not feasible) as soon as reasonably practicable after commencing any regulated activity in relation to the client.
- (d) A licensed individual insurance agent or a licensed technical representative (agent) should ensure the following information is correctly shown on his business card (including any digital business card) if a business card is distributed by the agent/technical representative for the purpose of carrying on regulated activities:
- (i) the name as shown on his Hong Kong identity card or passport¹¹;

¹¹ The licensed technical representative (agent) may also state any other name by which he is commonly known on his business card even if this is not shown on his Hong Kong identity card or passport.

- (ii) licence number;
- (iii) type of licence; and
- (iv) the name of his appointing insurer or appointing agency (as applicable).

5.2 Disclosure in relation to insurance products

- (a) A licensed insurance agent should provide all relevant information on the key features of each insurance product recommended or arranged by the agent to the client concerned. The information should include:
 - (i) the name of the insurer concerned;
 - (ii) the major policy terms and conditions (e.g. coverage, policy period, conditions precedent, exclusions and warranties and any other clauses which would reasonably be considered to adversely impact the client's decision to enter into the insurance policy);
 - (iii) the level of premium and the period for which the premium is payable; and
 - (iv) the fees and charges (other than premium) to be paid by the client, if any.
- (b) When comparing insurance products, a licensed insurance agent should adequately explain the similarities and differences between the products. Any comparison made should be accurate and not misleading (See also Standard and Practice 1.1(b)).

5.3 Disclosure in relation to a policy holder's obligations

When a client is making an application for insurance with the assistance of a licensed insurance agent, the agent should explain to the client:

- (i) the principle of utmost good faith and remind the client that non-disclosure of material facts or provision of incorrect information to an insurer may result in the insurance policy being invalidated or avoided or claims being repudiated by the insurer;
- (ii) the sort of material facts which ought to be disclosed by the client to the insurer¹²; and
- (iii) any declaration which needs to be made by the client in respect of the application and give the client the opportunity to review it before the client signs or makes the declaration.

¹² The agent may explain that a material fact is one that would influence a prudent insurer's judgement as to whether to insure the risk at all, the premium to charge, or the terms on which to insure and provide some examples relevant to the insurance policy which is the subject of the application to highlight the meaning.

5.4 Disclosure in relation to a client referred by another person¹³

- (a) Where a client is referred to a licensed insurance agent by another person (referrer), in addition to complying with the policies, procedures or requirements relating to referrals that its appointing insurer or appointing agency (as applicable) has in place, before the agent arranges an insurance policy for the client, the agent should inform the client that:
- (i) the agent will be responsible for arranging the insurance policy and, for this purpose, the client should only deal directly with the agent (i.e. the client should not deal with the referrer for arranging the insurance policy);
 - (ii) the referrer does not represent the agent and should have no involvement in the arrangement of the insurance policy;
 - (iii) the agent disclaims all liability for any advice in relation to the insurance policy given to the client by the referrer; and
 - (iv) premium for the insurance policy should be paid directly either to the insurer concerned or, if permitted (see Standard and Practice 8.1), to the agent (and not to the referrer).
- (b) Standard and Practice 5.4(a) does not apply where:
- (i) the client is referred to a licensed insurance agency by its appointed licensed technical representative (agent); or
 - (ii) the referral is made to the licensed insurance agent by a licensed insurance broker (acting as the agent of a client) for the purpose of arranging an insurance policy for that client with the agent's appointing insurer.

¹³ Under section 64G of the Ordinance, a person must not carry on a regulated activity in the course of the person's business or employment, or for reward, unless the person is a licensed insurance intermediary or exempt from the licensing requirements under the Ordinance. A person who contravenes the licensing requirements commits an offence. The Standards and Practices in this Code do not alter the requirements under section 64G of the Ordinance. If a referrer carries on regulated activities and none of the exemptions under the Ordinance apply, then the referrer must be licensed.

Section VI

General Principle 6 – Suitability of Advice

A licensed insurance agent's regulated advice should be suitable for the client taking into account the client's circumstances.

Related Statutory Conduct Requirement: Section 90(d) of the Ordinance – “*when carrying on a regulated activity, a licensed insurance intermediary 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.*”

Standards and Practices

6.1 Suitability assessment

- (a) Before giving regulated advice, a licensed insurance agent should carry out an appropriate suitability assessment in relation to the client's circumstances. The objective of such suitability assessment is to ensure that a licensed insurance agent obtains sufficient information in relation to the client's circumstances on which to base its regulated advice to the client.
- (b) To achieve the objective of a suitability assessment, a licensed insurance agent should:
 - (i) take reasonable steps to understand the client's circumstances;
 - (ii) consider the available insurance options¹⁴ in view of the client's circumstances;
 - (iii) take into account the client's circumstances when giving regulated advice to the client and have a reasonable basis for such advice; and
 - (iv) if a client does not provide information for the suitability assessment which is necessary for the licensed insurance agent to achieve the objective in Standard and Practice 6.1(a) above, the licensed insurance agent should explain that its regulated advice may not be suitable to address the client's circumstances unless such information is provided.
- (c) The level of suitability assessment should be proportionate and reasonable, taking into account the client's circumstances and other factors such as the type of insurance product under consideration¹⁵.

¹⁴ The insurance products explored by a licensed insurance agent should be based on the range of insurance products offered by its appointing insurer or appointing agency (as applicable) which the agent is authorized to promote.

¹⁵ Reference should also be made to the guidelines issued by the IA in relation to life insurance policies which set out specific requirements in relation to suitability assessments for these policies (e.g. financial needs analysis). For insurance products which are not subject to specific requirements for suitability assessment set out in guidelines or other rules or regulations, the extent of such assessment depends

6.2 Recommendation

- (a) The regulated advice given by a licensed insurance agent to a client (e.g. advice in relation to the making of an application or proposal for a contract of insurance) should be advice that a reasonable licensed insurance agent would consider suitable for the client based on the information obtained from the client, including the client's circumstances.
- (b) If, after a licensed insurance agent has carried out a suitability assessment and provided regulated advice, the client insists on making a material decision contrary to the recommendation included in the advice and which, in the agent's opinion, is not suitable for the client's circumstances, the agent should document and keep a proper record of:
- the recommendation made by the agent to the client;
 - the reasons provided by the client (if any) to the agent for taking a decision which does not follow the recommendation;
 - the explanation given by the agent to the client for considering the client's decision to be unsuitable; and
 - the fact that the decision is the client's own decision.

on the nature and complexity of the products concerned and the client's circumstances. For travel insurance, by way of example, the suitability assessment may be conducted as part of the application process (where the client's circumstances would be the trip details, the ages of the persons travelling, the length of the journey etc.)

Section VII

General Principle 7 – Conflicts of Interest

A licensed insurance agent should use best endeavours to avoid conflicts of interests and when such conflicts cannot be avoided, the agent should manage them with appropriate disclosure to ensure clients are treated fairly at all times.

Related Statutory Conduct Requirements:

- Section 90(f) of the Ordinance – “when carrying on a regulated activity, a licensed insurance intermediary 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”;
- Section 90(g) of the Ordinance – “when carrying on a regulated activity, a licensed insurance intermediary must disclose any conflict mentioned in paragraph (f) to the policy holder or the potential policy holder”.

Standards and Practices

7.1 Avoiding potential conflicts of interest and providing transparency through appropriate disclosure of principal-agent relationship

To avoid potential conflicts of interest and to provide transparency as to the role and functions of a licensed insurance agent, given the capacity of the agent being a representative of its appointing insurer or appointing agency (as applicable), the agent should disclose to the client the fact that:

- (i) the agent is appointed by its appointing insurer or appointing agency (as applicable) to promote, advise on or arrange the insurance products offered by the insurer or agency (as applicable); and
- (ii) the insurance products the agent can promote, advise on or arrange are limited to the insurance products offered by its appointing insurer or appointing agency (as applicable).

7.2 Disclosure of relevant restrictions arising from the agent’s terms and conditions with its principal

Where a licensed individual insurance agent or licensed insurance agency acts for more than one authorized insurer, but the terms of the relevant agreement with or appointment by any of its appointing insurers restricts the individual insurance agent or insurance agency from promoting, advising on or arranging particular insurance products on behalf of its other appointing insurers, the agent or agency (including the licensed technical representatives (agent) appointed by the agency) should disclose that restriction to the client and explain that, in line with the restriction, it will only be promoting advising on or arranging insurance products of that particular appointing insurer.

7.3 Avoid allowing own interests to influence the client's decision

Where a licensed insurance agent has another business or occupation, the agent should avoid any conflict arising between its interests in that other business or occupation and the interests of the client when carrying on regulated activities. In the event the agent is unable to avoid such conflict, it should disclose the conflict to the client as soon as practicable and, at all times, act fairly in relation to the client, placing the client's interests ahead of the agent's interests in the other business or occupation.

Section VIII

General Principle 8 – Client Assets

A licensed insurance agent should have sufficient safeguards in place to protect client assets received by the agent or which are in the agent's possession.

Related Statutory Conduct Requirement: Section 90(h) of the Ordinance – “*when carrying on a regulated activity, a licensed insurance intermediary must ensure that the assets of the policy holder or the potential policy holder are promptly and properly accounted for.*”

Standards and Practices

8.1 Handling of premiums

- (a) A licensed insurance agent should only receive payment of premiums, where it is within the scope of the agent's authority as granted by its appointing insurer or appointing agency (as applicable).
- (b) If a licensed insurance agent is authorized to receive premium payment by its appointing insurer or appointing agency (as applicable), the agent should:
 - (i) handle the payment and disburse it to the appointing insurer or appointing agency (as applicable) in strict conformity with the requirements, controls and timing set out by its appointing insurer or appointing agency (as applicable);
 - (ii) safeguard any premiums received and not mix such premiums with the agent's personal funds; and
 - (iii) maintain proper records of premiums received in accordance with the requirements and controls stated in (i) above.
- (c) As regards payment of premiums by way of cash, in addition to Standard and Practice 8.1(a) and (b) above, the following restrictions apply, namely:

A licensed insurance agent should not receive payment of premiums by way of cash, unless:

- (i) it is not reasonably feasible for the agent to accept payment by any other means; and
- (ii) the appointing insurer or appointing agency (as applicable) of the agent authorizes the agent to receive cash payment, the payment is within the limits of such authority and the payment is handled strictly in accordance with the requirements and controls to which such authority is subject.

Section IX

Corporate Governance and Controls and Procedures

A licensed insurance agency should have proper controls and procedures in place to ensure that the agency and its licensed technical representatives (agent) meet the General Principles, Standards and Practices set out in this Code.

Related Statutory Conduct Requirements: Section 91(1) of the Ordinance sets out the relevant conduct requirements for a licensed insurance agency as follows:

- (a) it must establish and maintain proper controls and procedures for securing compliance with the conduct requirements set out in section 90 by the agency and the licensed technical representatives (agent) appointed by the agency;*
- (b) it 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) it must ensure that its responsible officer has sufficient authority within the agency for carrying out the responsibilities set out in section 91(2); and*
- (d) it must provide its responsible officer with sufficient resources and support for carrying out the responsibilities set out in section 91(2).*

Corporate Governance

A licensed insurance agency should establish and implement an organizational and management structure which includes adequate controls and procedures to ensure the interests of clients are not prejudiced. Such organizational structure should include clear roles and lines of responsibility and accountability of its senior management which underpins the objective of fair treatment of clients. The extent and scope of the agency's governance structure will depend on the nature, size and complexity of the business as well as the medium it uses for solicitation of business and the types of insurance it promotes, advises on or arranges.

The requirements below elaborate on the controls and procedures that a licensed insurance agency is expected to adopt. For the avoidance of doubt, these requirements are in addition to other governance requirements set out in any applicable codes and guidelines, including the "Guideline on "Fit and Proper" Criteria for Licensed Insurance Intermediaries under the Insurance Ordinance (Cap. 41)".

Controls and Procedures

1. Compliance

- (a) A licensed insurance agency should have proper controls, procedures and adequate supervision to ensure that:
 - (i) persons who are recruited, employed by, associated with, or act for the agency in relation to the carrying on of regulated activities have the integrity and competence to discharge their duties and responsibilities;
 - (ii) the agency and its staff, particularly its licensed technical representatives (agent) comply with all laws, rules, regulations, codes and guidelines relevant to the carrying on of regulated activities in the agency's lines of business;
 - (iii) its licensed technical representatives (agent) comply with the agency's policies, procedures and other requirements for carrying on regulated activities (monitored, for example, by the responsible officer and senior management periodically reviewing management reports on non-compliance issues); and
 - (iv) its licensed technical representatives (agent) are trained and have a good understanding of the nature and key features of, and the risks covered by and associated with, the insurance products in respect of which they may carry on regulated activities and keep proper training records.

2. Handling of complaints

- (a) A licensed insurance agency should have proper controls and procedures to handle and resolve complaints about regulated activities carried on by the agency or its licensed technical representatives (agent) in a timely, fair and proper manner.
- (b) In order to achieve the objectives in paragraph (a), the licensed insurance agency should:
 - (i) have designated staff to handle such complaints;
 - (ii) ensure steps are taken to investigate such complaints, to respond promptly to the complainants concerned and to take any remedial action as appropriate;
 - (iii) advise complainants of the proper avenue for the complaints (including referral of the matters to the relevant authorized insurer and the IA) if the complaints cannot be resolved to the complainants' satisfaction by the agency;
 - (iv) maintain proper records of complaints; and
 - (v) respond to, cooperate and deal with the IA and other relevant regulatory authorities in the handling of complaints and provide assistance to its appointing insurers to resolve such complaints.

3. Keeping of records

A licensed insurance agency should establish proper controls and procedures to ensure that records in relation to the regulated activities it carries out (including the regulated activities carried out on its behalf, by its licensed insurance technical representatives (agent)) are kept, so as to comply with the record keeping requirements of all laws, rules, regulations, codes and guidelines applicable to the carrying on of regulated activities by the agency.

4. Reporting of incidents to the IA

- (a) A licensed insurance agency should report the following incidents to the IA, and should have proper controls and procedures to ensure such incidents are reported to the IA, as soon as reasonably practicable:
- (i) the filing of a petition for winding-up of the agency;
 - (ii) the bankruptcy of any directors, controllers, partners or licensed technical representatives (agent) of the agency;
 - (iii) a disciplinary action taken against the agency or its licensed technical representatives (agent) by the Monetary Authority, the Securities and Futures Commission or the Mandatory Provident Fund Schemes Authority; or
 - (iv) a criminal conviction (other than a minor offence) of the agency or its directors, controllers, partners or licensed technical representatives (agent) by any court in Hong Kong or elsewhere.
- (b) A licensed insurance agency should also report to the IA, as soon as reasonably practicable:
- (i) any material breaches of requirements under the Ordinance or any rules, regulations, codes or guidelines administered or issued by the IA, by the agency or its licensed technical representatives (agent); and
 - (ii) any material incidents which happen to the agency.
- (c) For the purposes of (b) above,
- (i) a breach or incident is material if:
 - it adversely impacts or is likely to adversely impact the agency's ability to carry on regulated activities;
 - it indicates that the agency's controls or procedures are inadequate to ensure compliance by the agency or its technical representatives (agent) with the requirements under the Ordinance or any rules, regulations, codes or guidelines administered or issued by the IA; or
 - it has caused or may cause loss to a client or to the agency itself;
 - (ii) a licensed insurance agency should establish a process for assessing whether a breach or an incident is material in accordance with the factors stated in (i) above and have proper controls and procedures to ensure the reporting of such material breaches or incidents to the IA; and

(iii) if a licensed insurance agency is not sure whether a breach or incident is material, the agency is encouraged to report the breach or incident to the IA.

5. Accountability of the responsible officer and senior management

The responsible officer of a licensed insurance agency, and its other senior management who oversee the business of regulated activities carried on by the agency, should ensure (and should be accountable for ensuring) that the controls and procedures required by 1 to 4 above are in place and effective.