

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

Room 902, First Pacific Bank Centre
56 Gloucester Road
Wanchai, Hong Kong
香港灣仔告士打道56號
第一太平銀行中心902室

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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:-

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

"Federation" means The Hong Kong Federation of Insurers;

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

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

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 Board

5. The Federation may give general directions or, in a particular case, specific directions to the Board as to the execution of its functions under this Code and the Board shall comply with such directions.
6. The Board may:
 - (a) refer complaints received by it concerning insurance agents to any Principal for investigation;
 - (b) receive investigation reports from any Principal relating to complaints against insurance agents;
 - (c) require any Principal to take disciplinary action in consequence of a complaint;
 - (d) confirm the appointment of insurance agents or revoke such confirmation;
 - (e) keep and maintain a register of insurance agents whose appointments have been confirmed by the Board; and
 - (f) report to the Insurance Authority where it appears to the Board that:
 - (i) an insurance agent or a Principal has breached Part X of the Ordinance or this Code; or
 - (ii) an insurance agent is not or has ceased to be a fit and proper person to act as an insurance agent.

Guidance Notes

7. The Board 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 10 B and 10 C 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.

The Federation 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 Federation shall be conclusive and binding.

Criminal Prosecution

9. 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

Confirmation of the Appointment of Insurance Agents

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

Registration of Insurance Agents

11. The Board, 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.
12. The registration of an insurance agent shall continue only for such period, not exceeding three years, as the Board may specify. The relevant Principal may re-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

13. 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 Board within seven days of such cessation and provide such details as the Board may require. Upon such notification by the Principal, the Board, 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

14. The Board, 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

15. 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.
16. For the purposes of clause 15:
 - (a) representation by a person of a composite insurer shall be regarded as the representation of two Principals, one long term and one general, unless the insurance agent's activities are restricted to either long term or general 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 long term or general business, or two Principals if their activities include both long term and general business unless the insurance agent's activities are restricted to either long term or general 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.

17. If a person acts as an insurance agent for any Principal, he shall notify such Principal prior to accepting an appointment to act as an insurance agent for another Principal.

Obligations of Principals in respect of Insurance Agents

18. 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) meets the fit and proper criteria set out in Part E of this Code;
 - (c) is confirmed by and registered with the Board in accordance with this Code;
 - (d) 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; and
 - (e) complies with this Code.

Termination of the Appointment of Insurance Agents

19. 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 Board not to be fit and proper to be an insurance agent; or
 - (c) fails to comply with this Code.

Training of Insurance Agents

20. 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.

PART D : PROCEDURES

The Register

21. The Board, on behalf of a Principal, shall keep and maintain a register of insurance agents whose appointments have been confirmed by the Board. The 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 Federation.

Applications for the Confirmation of Appointment and Registration of Insurance Agents

22. The following provisions shall apply to every application made to the Board for the confirmation of appointment and registration of an insurance agent:
- (a) the relevant Principal shall be responsible to submit the application;
 - (b) the application shall be made in such manner and form as may be prescribed by the Board from time to time;
 - (c) the appointing Principal and the relevant insurance agent or proposed insurance agent shall provide to the Board such additional information relevant to the application as the Board may require;
 - (d) the Board 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 Board forthwith of such change; and

- (f) an insurance agent or proposed insurance agent who is the subject of an application shall satisfy the Board that he is fit and proper to act as such and, unless the Board 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

23. The following shall apply if the Board receives a complaint concerning an insurance agent:

- (a) the Board may refer the complaint to any Principal for investigation;
- (b) the Principal shall diligently and expeditiously investigate the circumstances of the complaint and, on request by the Board, report the progress and the findings (if any) of the investigation. In consequence of such report, the Board may request the Principal to conduct further inquiries;
- (c) if the Board considers that it is likely to take disciplinary action if a complaint is proven, the Board 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 Board considers appropriate and the Board shall consider such representations;
- (d) when the Board 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 Board thinks fit;

- (f) when requiring disciplinary action affecting any Principal or insurance agent, the Board 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 Board may impose a further requirement and report such failure to the Insurance Authority.

Appeals

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

Reports to the Insurance Authority

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

PART E : FIT AND PROPER CRITERIA

Fitness and Properness of Insurance Agents

26. (a) Before determining pursuant to clauses 19(b) and 22(f) that a person is not fit and proper to act or continue acting as an insurance agent, the Board shall provide that person with an opportunity to make representations in such manner and form as the Board considers appropriate and shall consider such representations; and
- (b) if, following such consideration, the Board is not satisfied that a person is fit and proper to act or continue acting as an insurance agent, the Board shall provide the Insurance Authority with a written report specifying the grounds for its opinion. The Board shall give the person a copy of its report.

Matters Relevant to Fitness and Properness of Insurance Agents

27. In considering whether a person is fit and proper to act or continue acting as an insurance agent, the Board 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 and experience 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 32 to 40 (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 Federation;
- (f) if the person is an individual, whether the person possesses the qualifications and experience specified in clause 30; and
- (g) such other matters as the Board considers relevant in the circumstances.
28. The Board 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 Board or the Insurance Authority; or
- (b) in the opinion of the Board, by his words or actions, he has manifested a material lack of understanding of the duties and ethical responsibilities of an insurance agent.
29. The Board may consider a corporation not fit and proper to act as an insurance agent if any of its controllers or directors would not be considered fit to act as an insurance agent if he applied as an individual.

Minimum Qualifications and Experience for Individuals Acting as Insurance Agents

30. The minimum qualifications and experience that the Board may consider necessary before it would be satisfied that an individual is fit and proper to act as an insurance agent are that:
- (a) for an individual proposing to represent no more than one Principal each for long term and general business:
- (i) he has attained the age of 18; and
- (ii) has either
- completed education to level of Form 5 or equivalent, or
 - acquired 2 years relevant business experience; and

- (iii) has successfully completed a course of study, covering knowledge of insurance products, the principles of self-regulation and this Code, as may from time to time be deemed acceptable to the Board; or
- (b) for an individual proposing to represent more than one Principal each for long term and general business:
 - (i) he has attained the age of 18; and
 - (ii) has either
 - acquired 3 years relevant insurance-related experience; or
 - acquired an acceptable insurance qualification which may be an associate or a fellow of the Chartered Insurance Institute (ACII/FCII), the Australian Insurance Institute (AII/FAI), or the Insurance Institute of New Zealand (AIINZ/FIINZ); a fellow of the Life Management Institute (FLMI); a Chartered Life Underwriter (CLU); or other qualifications acceptable to the Board; or
 - successfully passed an examination, covering insurance practice, the principles of self-regulation and this Code, recognized by the Board.

PART F : MINIMUM REQUIREMENTS OF MODEL AGENCY AGREEMENT

- 31. 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 Federation. The Federation 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

- 32. An insurance agent shall at all times conduct business in good faith and with integrity.
- 33. In the event of a complaint concerning the conduct of an insurance agent, the agent shall co-operate with 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 Board.
- 34. 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 policyholder 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 policyholder 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 policyholder before the binding of the policy;
 - (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.
35. In assisting a prospective policyholder to complete the proposal or application form, an insurance agent shall:
- (a) not influence the prospective policyholder, 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 policyholder and draw his attention to the relevant statements in the proposal form.

Conduct of Insurance Agents for Long Term Insurance Business

36. An insurance agent shall at all times conduct business in good faith and with integrity.
37. In the event of a complaint concerning the conduct of an insurance agent, the agent shall co-operate with 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 Board.

38. 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 policyholder 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 policyholder 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 policyholder 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 policyholder before the binding of the policy;
 - (i) not make inaccurate, misleading or incomplete statements or comparisons to induce an insured to replace existing long term insurance with other long term insurance to the insured's disadvantage; and

- (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 policyholder.
39. In assisting a prospective policyholder to complete the proposal or application form, an insurance agent shall:
- (a) not influence the prospective policyholder, 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 policyholder and draw his attention to the relevant statements in the proposal form.
40. 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 policyholder'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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