

**Important**

Our Ref: R01-J3455

30 December, 1999

Dear Sir/Madam,

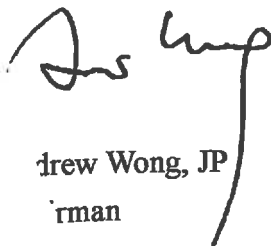
**Code of Practice for the Administration of Insurance Agents ("Code")**

Enclosed please find the latest version of the Code which will take effect on 1<sup>st</sup> January 2000.

In order to assist your appointed insurance agents and their responsible officers and technical representatives to fully comply with the new Code, I shall be grateful if you would arrange immediately to:

- Firstly, give a copy of the enclosed Code to all of your existing insurance agents and agents to be appointed after the promulgation of the Code; and
- Secondly, remind all of your agents, whether existing or to be appointed, to give a copy of the said Code to their serving and future responsible officers and technical representatives.

Yours faithfully,

  
Andrew Wong, JP  
Chairman

註冊有限公司  
Incorporated with limited liability

# THE CODE OF PRACTICE

FOR THE ADMINISTRATION OF  
INSURANCE AGENTS

保險代理管理守則

*Outdated Version (Fourth Edition)*

**HKFI**

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

First Edition Jan 1993  
Second Edition Jun 1995  
Third Edition Jan 1998  
Fourth Edition Jan 2000

1993年1月初版  
1995年6月第2版  
1998年1月第3版  
2000年1月第4版

ISBN 962-85056-4-5

Publisher : The Hong Kong Federation of Insurers  
Address : Room 902, First Pacific Bank Centre,  
56 Gloucester Road, Wanchai, Hong Kong

Printing : Hong Kong

出版 : 香港保險業聯會  
地址 : 香港灣仔告士打道56號  
第一太平銀行中心902室  
印刷 : 香港



香港保險業聯會

THE HONG KONG FEDERATION OF INSURERS

註冊有限公司  
Incorporated with limited liability

# CONTENTS

## **PART A : INTERPRETATION** ..... 1

Status

Definitions

Application of the Ordinance

Conflict with the Ordinance

## **PART B : GENERAL PRINCIPLES** ..... 4

Functions of the IARB

Guidance Notes

Construction of the Code in both Official Languages

Criminal Prosecution

## **PART C : RULES** ..... 6

### ***INSURANCE AGENTS***

Confirmation of the Appointment of Insurance Agents

Registration of Insurance Agents

Cancellation of the Registration of Insurance Agents

Notification to the Insurance Authority

Representation of Principals by Insurance Agents

Obligations of Principals in respect of Insurance Agents

Termination of the Appointment of Insurance Agents

Training of Insurance Agents

***RESPONSIBLE OFFICERS AND TECHNICAL REPRESENTATIVES***

Confirmation of the Appointment of Responsible Officers and Technical Representatives

Registration of Responsible Officers and Technical Representatives

Cancellation of the Registration of Responsible Officers and Technical Representatives

Notification to the Insurance Authority

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

Termination of the Appointment of Responsible Officers or Technical Representatives

**PART D : PROCEDURES ..... 11**

The Register

Applications for the Confirmation of Appointment and Registration of Insurance Agents

Complaints against Insurance Agents

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

Complaints against Responsible Officers and Technical Representatives of Insurance Agents

Appeals

Reports to the Insurance Authority

**PART E : FIT AND PROPER CRITERIA ..... 18**

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

Matters Relevant to Fitness and Properness of Insurance Agents

Minimum Qualifications for Persons Acting as Insurance Agents

Insurance Agent which is an Insurance Agency

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

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

**PART F : MINIMUM REQUIREMENTS OF MODEL ..... 24**  
**AGENCY AGREEMENT**

Conduct of Insurance Agents for General Insurance Business

Conduct of Insurance Agents for Long Term Insurance Business

Outdated Version (Fourth Edition)

## PART A : INTERPRETATION

### Status

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

### Definitions

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

"HKFI" means The Hong Kong Federation of Insurers;

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

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

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

as defined in the Insurance Companies Ordinance;

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

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

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

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

“Responsible  
Officer”

in relation to

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

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

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

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



“Technical  
Representative”

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

### **Application of the Ordinance**

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

### **Conflict with the Ordinance**

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

## PART B : GENERAL PRINCIPLES

### Functions of the IARB

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

6. The IARB may:-

(a) refer complaints received by it:-

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

for investigation;

(b) receive investigation reports from any Principal or relevant insurance agent relating to complaints mentioned in clause 6(a);

(c) require any Principal or relevant insurance agent to take disciplinary action in consequence of a complaint;

(d) confirm the appointment of insurance agents, Responsible Officers and Technical Representatives or revoke such confirmation;

(e) keep and maintain:-

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

whose appointments have been confirmed by the IARB; and

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

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

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

### **Guidance Notes**

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

### **Construction of the Code in both Official Languages**

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

### **Criminal Prosecution**

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

## **PART C : RULES**

### ***INSURANCE AGENTS***

#### **Confirmation of the Appointment of Insurance Agents**

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

#### **Registration of Insurance Agents**

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

#### **Cancellation of the Registration of Insurance Agents**

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

#### **Notification to the Insurance Authority**

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

## **Representation of Principals by Insurance Agents**

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

In this sub-clause:-

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

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

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

## **Obligations of Principals in respect of Insurance Agents**

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

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

### **Termination of the Appointment of Insurance Agents**

20. A Principal shall terminate the appointment of an insurance agent if the Principal becomes aware that such an insurance agent:-
- (a) acts at any one time for more than the maximum number of Principals allowed;
  - (b) has been determined by the IARB not to be fit and proper to be an insurance agent; or
  - (c) fails to comply with this Code.

### **Training of Insurance Agents**

21. A Principal shall provide to each of its insurance agents sufficient training where a reasonable person receiving such training:-
- (a) shall be familiar with the requirements of the Ordinance and this Code; and
  - (b) would thereby be able to competently undertake the duties of an insurance agent in accordance with the requirements of the Ordinance and this Code.

## ***RESPONSIBLE OFFICERS AND TECHNICAL REPRESENTATIVES***

### **Confirmation of the Appointment of Responsible Officers and Technical Representatives**

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

### **Registration of Responsible Officers and Technical Representatives**

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

### **Cancellation of the Registration of Responsible Officers and Technical Representatives**

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

### **Notification to the Insurance Authority**

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

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

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

### **Termination of the Appointment of Responsible Officers or Technical Representatives**

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



## PART D : PROCEDURES

### The Register

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

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

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

### Applications for the Confirmation of Appointment and Registration of Insurance Agents

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

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

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

### **Complaints against Insurance Agents**

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

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

- (e) disciplinary action may include requiring a Principal to:-
- (i) issue a reprimand to an insurance agent;
  - (ii) suspend or terminate the appointment of any of its insurance agents; or
  - (iii) take or refrain from taking such other action as the IARB thinks fit;
- an agent whose appointment has been terminated in these circumstances will be barred from registration as an insurance agent, a Responsible Officer or Technical Representative for a specified period;
- (f) when requiring disciplinary action affecting any Principal or insurance agent, the IARB shall also serve on that Principal and insurance agent a notification of that requirement together with a statement specifying the grounds therefor; and
- (g) if a Principal fails to comply with a requirement to take disciplinary action, the IARB may impose a further requirement and report such failure to the Insurance Authority.

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

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

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

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

### **Complaints against Responsible Officers and Technical Representatives of Insurance Agents**

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

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

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

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

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

### **Appeals**

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

### **Reports to the Insurance Authority**

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

*Outdated Version (Fourth Edition)*

## PART E : FIT AND PROPER CRITERIA

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

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

### **Matters Relevant to Fitness and Properness of Insurance Agents**

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



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

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

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

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

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

#### **Minimum Qualifications for Persons Acting as Insurance Agents**

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

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

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

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

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

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

### **Insurance Agent which is an Insurance Agency**

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

### **Matters Relevant to Fitness and Properness of Responsible Officers and Technical Representatives**

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

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

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

## **PART F : MINIMUM REQUIREMENTS OF MODEL AGENCY AGREEMENT**

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

### **Conduct of Insurance Agents for General Insurance Business**

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

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

### **Conduct of Insurance Agents for Long Term Insurance Business**

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

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

63. In assisting a prospective policy holder to complete the proposal or application form, an insurance agent shall:-



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

## GUIDELINES ON MISCONDUCT

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

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

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

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

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

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

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

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

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

## **GUIDELINES ON HANDLING OF PREMIUMS**

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

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

### **Handling of Premiums**

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

Cheque in favour of the Principal or

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

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

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

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

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

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

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