

Ref : Mv005/10 **By Fax/By E-mail**

To : Authorized Representatives of Member Companies

From : James Wong, Chairman of Task Force on the Review of the  
*Code of Practice for the Administration of Insurance Agents*

Date : 11 January 2010

Subject : ***Code of Practice for the Administration of Insurance Agents (Code)***

As the revised Code will become effective on 1 March 2010, we have received enquiries from members as to the changes involved. In this regard, we attach again our circular Mv008/07 dated 27 February 2007 which outlined the major amendments. We wish to point out that Appeals Tribunal is now covered under clauses 49 to 56 of the new Code. Other amendments have been made to ensure greater clarity of the Code.

In addition, further revisions have been made to Clauses 66, 68 and 69 (attached) of the Code to be in line with Guidance Note 11 – Guidance Note Applicable to Registered Persons Wishing to Engage/Continue to Engage in Investment-linked Long Term Insurance Business on or after 1 March 2010. This Guidance Note corresponds with the CPD Information Sheet and IIQAS Fact Sheet released by the Office of the Commissioner of Insurance (OCI) in October 2009. The relevant clauses are being reviewed by OCI. Once they are endorsed by OCI, they will be incorporated in the Code accordingly.



JW/iw/sw

Encl. (4 pgs incl. this cover)



27 FEB 2007

all member

Ref : Mv008/07

**By Fax/By E-mail**

To : Authorized Representatives of Member Companies

From : Betty Chang, Chairperson of Task Force on the Review of the  
*Code of Practice for the Administration of Insurance Agents*

Date : 27 February 2007

Subject : **The Code of Practice for the Administration of Insurance Agents  
(Code)**

At the request of the Insurance Agents Registration Board (IARB), the Code has been rewritten with the assistance of legal counsel, Richards Butler. Major amendments include:

1. *Part D: Procedures* and *Part E: Fit and Proper Criteria* which covered respectively insurance agents, Responsible Officers and Technical Representatives have been revised to cover them as "Registered Persons";
2. The IARB is authorised to establish panels (new clause 9) to reflect the intent of the Articles of Association of the HKFI; and
3. The section on the Appeals Tribunal (old clauses 42 to 46) has been expanded with the provision for interim stay (new clauses 47 to 54).

Attached is the revised draft Code with amendments highlighted. Please provide your comments by **Friday, 30 March 2007**.

We plan to conduct a briefing to answer your queries and will inform you of the details in due course.

BC/IW/yk

Encl. (25 pgs incl. this cover)

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## Proposed Amendments to Clauses 66, 68 and 69 9 of the Code of Practice for the Administration of Insurance Agents

66. From 1 March 2010, the exemption in sub-clause (a)(i) to (ii) inclusive below will no longer apply. From that time, Registered Persons may engage or continue to engage in Long Term (including Linked Long Term) Business in accordance with GN11 – Guidance Note Applicable to Registered Persons Wishing to Engage/Continue to Engage in Investment-linked Long Term Insurance Business on or after 1 March 2010 as in force from time to time.

An individual shall be exempted from Paper V of the Qualifying Examinations if he:-

(a) was engaged in long term insurance intermediary business in Hong Kong immediately before 1 January 2002 and has fulfilled all of the following:-

- (i) has proven long term insurance experience in Hong Kong for a cumulative period of at least seven years within the eight-year period immediately before 1 January 2002; and
- (ii) has proven experience in Hong Kong in selling at least four linked long term policies per annum and 50 linked long term policies in total within the five-year period immediately before 1 January 2002;

or

(b) is in possession of any of the following recognized professional qualifications in insurance, investment or actuarial science:-

- (i) Chartered Life Underwriter (CLU) with an elective paper "HS 328 Investments" in the CLU qualifying examination successfully passed;
- (ii) Chartered Financial Consultant (ChFC);
- (iii) Certified Financial Planner (CFP);
- (iv) Fellow of the Institute of Actuaries of England (FIA);
- (v) Fellow of the Faculty of Actuaries in Scotland (FFA);
- (vi) Fellow of the Institute of Actuaries of Australia (FIAA);
- (vii) Fellow of the Society of Actuaries of the United States of America (FSA);
- (viii) Foundation Programme Examination of the Hong Kong Securities Institute (FPE) successfully passed;
- (ix) Diploma Programme Examination of the Hong Kong Securities Institute (DPE) successfully passed;
- (x) HKSI Practising Certificate of the Hong Kong Securities Institute;
- (xi) HKSI Specialist Certificate of the Hong Kong Securities Institute; or
- (xii) HKSI Professional Diploma in Financial Markets of the Hong Kong Securities Institute;

or other qualifications acceptable to the Insurance Authority.

67. Subject always that no Registered Person shall be engaged in a class of insurance business other than that his Principal or his appointing insurance agent is authorized to conduct:

- (a) a Registered Person who has been exempted under clause **64(a)(i)** is eligible to be engaged in the Line of Insurance Business [only for (i) General Business or Restricted Scope Travel Business, and (ii) Long Term (excluding Linked Long Term) Business] in which he has been engaged for five years within the six-year period immediately before 1 January 2000 or has substantially been engaged during that five-year period;
- (b) a Registered Person who has been exempted under clause **64(a)(ii)** is eligible to conduct general insurance agency business or restricted scope travel insurance agency business;
- (c) a Registered Person who has been exempted under clause **64(b)(i) to (vi)** is eligible to conduct general and long term (excluding linked long term) insurance agency business and restricted scope travel insurance agency business;
- (c) a Registered Person who has been exempted under clause **64(b)(vii) to (x)** and clause **66(b)(iv) to (vii)** is eligible to conduct general, long term (excluding linked long term) and long term (including linked long term) insurance agency business and restricted scope travel insurance agency business;
- (e) a Registered Person who is eligible to conduct long term (excluding linked long term) insurance agency business and has been exempted under clause **66** is also eligible to conduct long term (including linked long term) insurance agency business;

but such Registered Persons are not eligible to conduct any additional insurance agency business unless qualified to conduct such business under another clause of this *Code*.

68. An individual who has ceased to be engaged in insurance-related work in the insurance industry in Hong Kong for two consecutive years shall pass the relevant papers of the Qualifying Examinations before he can be re-appointed and registered as a Registered Person, unless he has been exempted under clauses **64(b)** and **66(b)** as appropriate, or is otherwise permitted to engage in Long Term (including Linked Long Term) Business under GN11 – Guidance Note Applicable to Registered Persons Wishing to Engage/Continue to Engage in Investment-linked Long Term Insurance Business on or after 1 March 2010 as in force from time to time.

69. An individual who has passed the relevant papers of the Qualifying Examinations for two consecutive years during which he has not been engaged in insurance-related work in the insurance industry in Hong Kong, shall pass the relevant papers of the Qualifying Examinations again before he can be appointed and registered as a Registered Person, unless he has been exempted under clauses **64(b)** and **66(b)** as appropriate, or is otherwise permitted to engage in Long Term (including Linked Long Term) Business under GN11 – Guidance Note Applicable to Registered Persons Wishing to Engage/Continue to Engage in Investment-linked Long Term Insurance Business on or after 1 March 2010 as in force from time to time.



# 保險代理管理守則

## The Code of Practice for the Administration of Insurance Agents



First Edition January 1993  
Second Edition June 1995  
Third Edition January 1998  
Fourth Edition January 2000  
Fifth Edition January 2002  
Sixth Edition June 2004  
Seventh Edition March 2010

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  
2002年1月第5版  
2004年6月第6版  
2010年3月第7版

**ISBN 978-962-85056-8-5**

Publisher: The Hong Kong Federation of Insurers  
Address: 29th Floor, Sunshine Plaza  
353 Lockhart Road, Wanchai, Hong Kong  
Printing: Hong Kong

出版：香港保險業聯會  
地址：香港灣仔駱克道353號三湘大廈29樓  
印刷：香港

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## P A R T A Interpretation

### Status

1. This *Code of Practice for the Administration of Insurance Agents* (this "Code") (the 7th version dated 1 March 2010) has been approved by the Insurance Authority pursuant to section 67 of the *Insurance Companies Ordinance* and referred to in Article 48 of the *Amended Articles of Association* of The Hong Kong Federation of Insurers.

### Definitions

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

**"Guidance Notes"** means the guidance notes issued by the HKFI/IARB from time to time under clause 11;

**"HKFI"** means The Hong Kong Federation of Insurers;

**"IARB"** means the Insurance Agents Registration Board established by the HKFI to administer this *Code* pursuant to Article 48 of the *Amended Articles of Association* of the HKFI;

**"Individual Agent"** means an insurance agent who is an individual, natural person and who is not registered as an Insurance Agency;

**"Insurance Agency"** means an insurance agent operating as an insurance agency business in the form of a sole proprietor, a partnership or a corporation;

**"Insurance agent"** means a person who holds himself out to advise on or arrange contracts of insurance in or from Hong Kong as an agent or subagent of one or more insurers and for the purposes of this *Code* includes: (i) an Individual Agent; and (ii) an Insurance Agency; but does not include a Responsible Officer or a Technical Representative of an insurance agent;

**"Line of Insurance Business"** means:

- (a) General Business (as defined in the *Ordinance*);
- (b) Long Term (excluding Linked Long Term) Business (as defined in the *Ordinance*);
- (c) Long Term (including Linked Long Term) Business (as defined in the *Ordinance*); and/or
- (d) Restricted Scope Travel Business;

**"MPF Code"** means the *Code of Conduct for MPF Intermediaries* issued by the MPFA as amended from time to time;

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

**"MPFA"** means the Mandatory Provident Fund Schemes Authority established pursuant to the *Mandatory Provident Fund Schemes Ordinance* (Chapter 485 of the *Laws of Hong Kong*);



**"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. However, unless otherwise stated, persons collectively represented as a syndicate of Lloyd's shall be treated as one Principal for the purposes of any insurance business relating to the syndicate;

**"Registered Person"** means a person who has been registered under clauses 15 or 30 as either:

- (a) an Individual Agent;
- (b) an Insurance Agency;
- (c) a Responsible Officer of an Insurance Agency; or
- (d) a Technical Representative of an Individual Agent or an Insurance Agency ;

**"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.

For the avoidance of doubt, nothing in this *Code* is intended to make a Responsible Officer an insurance intermediary for the purposes of the *Ordinance*. This *Code* does not affect the operation of the *Ordinance* insofar as it relates to insurance intermediaries;

**"Restricted Scope Travel Business"** means effecting and carrying out contracts of travel insurance tied to a tour, travel package, trip or other travel services which the same travel agent arranges for his clients, excluding any annual travel insurance policies or any travel insurance policies for tours, travel packages, trips or other travel services which the travel agent does not arrange for his clients; 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 purposes 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.

For the avoidance of doubt, nothing in this *Code* is intended to make a Technical Representative an insurance intermediary for the purposes of the *Ordinance*. This *Code* does not affect the operation of the *Ordinance* insofar as it relates to insurance intermediaries.

3. In this *Code*, where the context permits:
  - (a) words and expressions importing the masculine gender shall include the feminine and neuter genders and vice versa;
  - (b) words and expressions importing singular shall include the plural and vice versa;
  - (c) words and expressions importing person(s) shall include partnership, body(ies) of persons and corporation(s);
  - (d) references to clauses, sub-clauses and parts are to be construed as references to clauses, sub-clauses and parts of this *Code*; and
  - (e) the headings in this *Code* are inserted for convenience only and shall be ignored in the interpretation of this *Code*.

#### **Application of the *Ordinance***

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

#### **Conflict with the *Ordinance***

5. 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.
6. In this *Code*, where reference is made to a Registered Person engaging in or being authorized to engage in any particular Line of Insurance Business, class of business or activity, that reference shall be construed as meaning in accordance with the particular capacity and role of the relevant Registered Person. Nothing in this *Code* shall be construed as permitting or authorizing a Registered Person to conduct activities which they are not entitled to conduct under the *Ordinance*.

# P A R T B General Principles

## Functions of the IARB

7. 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.
8. The IARB may do anything it considers necessary or desirable for the purposes of implementing and administering the provisions of this *Code*, provided such actions are not inconsistent with the *Amended Articles of Association* of the HKFI or this *Code*. Without prejudice to the foregoing, the IARB may:
  - (a) investigate any matters in respect of any application for registration or renewal of registration of a proposed Registered Person or Registered Person, or any complaints against any Registered Person;
  - (b) refer any matters or complaints received by it to any Principal or Registered Person as appropriate for investigation;
  - (c) receive investigation reports from any Principal or Registered Person relating to any matters or complaints;
  - (d) require any Principal or Registered Person to take disciplinary or other action in respect of a Registered Person;
  - (e) register insurance agents, Responsible Officers and Technical Representatives as Registered Persons or revoke such registration; and
  - (f) report to the Insurance Authority where it appears to the IARB that:
    - (i) any Registered Person, Principal or insurer has breached Part X of the *Ordinance* or this *Code*; or
    - (ii) any Registered Person is not or has ceased to be a fit and proper person to be registered as such.
9. Without prejudice generally to the IARB's powers of delegation, the IARB may at any time establish a Panel or Panels which shall consist of at least one IARB Board Member. A Panel shall consider and deal with such matters and things as may be referred to it by the IARB. Subject to clause 10 below, the IARB may delegate any of its powers or functions to the Panels as it thinks fit, and any Panel so formed shall in the exercise of the powers or functions so delegated conform to any requirements that may be imposed on it by the IARB.
10. In the event that a Panel refers a complaint to an insurer or a Registered Person and the insurer or Registered Person fails to:
  - (a) investigate the complaint;
  - (b) report to the Panel the findings of the investigation and the action taken, if any;
  - (c) take disciplinary action as required by the Panel; and/or
  - (d) comply with any directions issued by the Panel under clause 48 of this *Code*;

the insurer or Registered Person is deemed to be in breach of this *Code*, and the Panel shall refer the matter back to the IARB.



### **Guidance Notes**

11. The HKFI/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*.

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

12. 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 this *Code* as if this *Code* was an "*Ordinance*" referred to in those sections.
13. The HKFI shall have the power to determine the meaning of this *Code* in both English and Chinese versions and to resolve inconsistencies, if any, between the two versions of this *Code*. Any determination made by the HKFI shall be conclusive and binding.



# P A R T C Rules

## **INSURANCE AGENTS**

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

14. 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. A Principal shall also ensure that each of its appointed insurance agents is registered with the IARB for the relevant Line of Insurance Business to be engaged in.

### **Registration of Insurance Agents : Individual Agent or Insurance Agency**

15. The IARB, on behalf of the relevant Principal, may, upon application in the prescribed manner and payment of the prescribed fee, register an insurance agent as the insurance agent of that Principal. The IARB may register the insurance agent under the category of either Individual Agent or Insurance Agency of the relevant Principal.
16. 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.
17. The IARB shall issue a registration number to an insurance agent once the agent is registered. The insurance agent shall disclose his registration number if so requested. He shall also have his registration number identified on his business cards if they are distributed.
18. The insurance agent shall display his name and registration number on the name plate put in front of the service desk or counter if he is registered as engaging in the Restricted Scope Travel Business and provides face-to-face insurance service at service desk or counter.

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

19. The Principal shall notify the IARB within seven days of an insurance agent ceasing to be an appointed insurance agent of the Principal and provide such details as the IARB may require. Upon receipt of such notification, the insurance agent's registration as an agent of the Principal shall be deemed cancelled and the IARB, on behalf of the Principal, shall remove the insurance agent from that part of the register relating to that Principal.

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

20. 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

21. A person shall not act as or be registered as an insurance agent for more than four Principals of whom no more than two shall be insurers who conduct Long Term Business.

22. For the purposes of clause 21:

- (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 (i) General or Restricted Scope Travel Business or (ii) Long Term Business;
- (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 (i) General or Restricted Scope Travel Business or (ii) Long Term Business; or two Principals if their activities include both (i) General or Restricted Scope Travel Business and (ii) Long Term Business unless the insurance agent's activities are restricted to either (i) General or Restricted Scope Travel Business or (ii) 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* (Chapter 32 of the *Laws of Hong Kong*); and

- (c) representation by a person of a group of Lloyd's syndicates shall be deemed to be:
  - (i) one Principal if the activities of the syndicates are limited to either (i) General or Restricted Scope Travel Business or (ii) Long Term Business;
  - (ii) one Principal if the activities of the syndicates include both (i) General or Restricted Scope Travel Business and (ii) Long Term Business, but the insurance agent's activities are restricted to just one of those activities;
  - (iii) two Principals if the activities of the syndicates include both (i) General or Restricted Scope Travel Business and (ii) Long Term Business, and the insurance agent's activities are not restricted to either (i) General or Restricted Scope Travel Business or (ii) Long Term Business.

23. 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.

24. Subject to clauses 21 and 22, if a person acts as an agent of another insurance agent, he shall be deemed to act for and shall register to represent all the Principal(s) of the appointing insurance agent and shall be deemed to be engaged in and shall register for all appointed Line(s) of Insurance Business of the appointing insurance agent.



## Obligations of Principals in respect of Insurance Agents

25. A Principal shall ensure that each of its insurance agents:
- (a) does not act at any one time for more than the maximum number of Principals allowed;
  - (b) is eligible to be engaged in a Line of Insurance Business in respect of which the Principal is authorized to conduct and has appointed the insurance agent to engage in;
  - (c) meets the fit and proper criteria set out in Part E;
  - (d) shall have his appointment confirmed by and is 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;
  - (f) discloses his registration number if so requested;
  - (g) identifies his registration number on his business cards if they are distributed;
  - (h) displays his name and registration number on the name plate put in front of the service desk or counter if he is registered as engaging in the Restricted Scope Travel Business and provides face-to-face insurance service at service desk or counter;
  - (i) has registered as an MPF intermediary with the MPFA where the insurance agent is also engaged in selling or advising on Mandatory Provident Fund schemes or their constituent or underlying funds;
  - (j) has been licensed as a travel agent under the *Travel Agents Ordinance* (Chapter 218 of the *Laws of Hong Kong*) where the insurance agent is registered to be engaged in Restricted Scope Travel Business; and
  - (k) complies with this *Code*.

## Termination of the Appointment of Insurance Agents

26. A Principal shall terminate the appointment of an insurance agent if the Principal becomes aware that such insurance agent acts at any one time for more than the maximum number of Principals allowed.
27. In the event that the IARB or (in the case of an appeal against a decision of the IARB) the Appeals Tribunal determines that an insurance agent is not fit and proper to be registered as an insurance agent or has failed to comply with the provisions of this *Code*, the Principal shall take such action as may be directed by the IARB or the Appeals Tribunal, including, where required to do so, terminating the appointment of the insurance agent.

## Training of Insurance Agents

28. 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 and Registration of Responsible Officers and Technical Representatives**

29. 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. An insurance agent shall also ensure that each of its appointed Responsible Officer and Technical Representatives is registered with the IARB for the relevant Line of Insurance Business to be engaged in.

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

30. The IARB may, upon application in the prescribed manner by an insurance agent and payment of the prescribed fee, register a person as a Responsible Officer or Technical Representative of an insurance agent.
31. 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.
32. The IARB shall issue a registration number to a Responsible Officer or Technical Representative once the Responsible Officer or Technical Representative is registered. The Responsible Officer or Technical Representative shall disclose his registration number if so requested. He shall also have his registration number identified on his business cards if they are distributed.
33. The Responsible Officer or Technical Representative shall display his name and registration number on the name plate put in front of the service desk or counter if he is registered as engaging in the Restricted Scope Travel Business and provides face-to-face insurance service at service desk or counter.

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

34. The insurance agent shall notify the IARB within seven days of a Responsible Officer or a Technical Representative ceasing to be the Responsible Officer or Technical Representative of the insurance agent and provide such details as the IARB may require. Upon receipt of such notification, the Responsible Officer's or Technical Representative's registration shall be deemed cancelled and the IARB shall remove the Responsible Officer or Technical Representative from that part of the sub-register relating to that insurance agent.

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

35. 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.

### **Representation of Insurance Agents by Responsible Officers and Technical Representatives**

36. A person shall not act as a Responsible Officer or Technical Representative for more than one insurance agent.

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

37. An insurance agent shall ensure that any person acting as its Responsible Officer or Technical Representative:
- (a) does not act at any one time for more than one insurance agent;
  - (b) is eligible to be engaged in a Line of Insurance Business which the insurance agent is eligible to be engaged in;
  - (c) meets the fit and proper criteria for Registered Persons set out in Part E;
  - (d) shall have his appointment confirmed by and is registered with the IARB in accordance with this *Code*;
  - (e) discloses his registration number if so requested;
  - (f) identifies his registration number on his business cards if they are distributed;
  - (g) displays his name and registration number on the name plate put in front of the service desk or counter if he is registered as engaging in the Restricted Scope Travel Business and provides face-to-face insurance service at service desk or counter; and
  - (h) complies with this *Code*.

### **Obligations of Responsible Officers**

38. A Responsible Officer of an insurance agent shall ensure that all Technical Representatives of that insurance agent comply with this *Code*.

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

39. An insurance agent shall terminate the appointment of a Responsible Officer or Technical Representative if the insurance agent becomes aware that such Responsible Officer or Technical Representative acts at any one time for more than one insurance agent.



40. In the event that the IARB or (in the case of an appeal against a decision of the IARB) the Appeals Tribunal determines that a Responsible Officer or Technical Representative is not fit and proper to be registered as a Responsible Officer or Technical Representative or has failed to comply with the provisions of this *Code*, the insurance agent shall take such action as may be directed by the IARB or the Appeals Tribunal, including, where required to do so, terminating the appointment of the Responsible Officer or Technical Representative.

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

41. An insurance agent shall provide to its Responsible Officer and each of its Technical Representatives 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 a Responsible Officer or Technical Representative in accordance with the requirements of this *Code*.



# PART D Procedures

## The Register

42. The IARB shall keep and maintain:

- (a) a register of insurance agents (on behalf of the relevant Principals); and
- (b) a sub-register of insurance agents' Responsible Officers and Technical Representatives;

in respect of such persons whose appointments have been confirmed by the IARB. It is the Principal's duty and the appointing insurance agent's duty to notify the IARB to update the register and the sub-register respectively in respect of any registration or cancellation of registration of Registered Persons in the manner set out in Part C. The register and 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 at the website of the HKFI at any time or during normal working hours at the registered office of the HKFI.

## Application for the Confirmation of Appointment and Registration of Registered Persons

43. The following provisions shall apply to every application made to the IARB for the confirmation of appointment and registration of a Registered Person or proposed Registered Person (the applicant):

- (a) in the case of an application for registration as an insurance agent, the relevant Principal shall be responsible for submitting the application and, in the case of application for registration as Responsible Officer or Technical Representative, the appointing 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 Principal or the appointing insurance agent and the applicant 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) if the appointing Principal or the appointing insurance agent becomes aware of any changes in the circumstances of an applicant who is the subject of a pending application which may potentially affect the IARB's consideration of the application, they shall notify the IARB forthwith of such changes; and
- (f) the applicant shall satisfy the IARB that he is fit and proper to be or continue to be registered as a Registered Person and, unless the IARB is so satisfied, it shall not confirm the appointment of that person as a Registered Person.

## Procedures for Determining Fitness and Propriety of Registered Persons and Complaints against Registered Persons

44. The following shall apply if the IARB becomes aware of any matter or complaint which may involve a breach of this Code or which may render a Registered Person not fit and proper to remain appointed and registered as a Registered Person:



- (a) the IARB may investigate any matter or complaint or refer any matter or complaint to any Principal or Registered Person for investigation;
- (b) if the matter or complaint is referred to a Principal or Registered Person for investigation, the Principal or the Registered Person shall diligently and expeditiously investigate the matter or the circumstances of the complaint and, on request by the IARB, report the progress and the findings (if any) of the investigation within 14 days of the date of referral or such further period as may be specified by the IARB. The IARB may request the Principal and/or the Registered Person to conduct further inquiries;
- (c) if the IARB considers that it is likely to take disciplinary or other action if the matter or complaint is proven, the IARB shall provide (i) the respondent to whom the matter or complaint relates and (ii) any Principal or appointing 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 within 14 days or such further period as may be specified by the IARB, and the IARB shall consider such representations;
- (d) when all representations concerning the matter or the complaint have been considered by the IARB and the IARB is of the view that either there has been a breach of this *Code* or the matter at issue renders the respondent not fit and proper to be or continue to be registered as a Registered Person, the IARB may take disciplinary or other action in the manner set out in sub-clause (e) below and/or require the Principal or any Registered Person (including the respondent's appointing insurance agent) to take disciplinary or other action in the manner set out in sub-clause (e) below;
- (e) disciplinary or other action may include:-
  - (i) issuing a reprimand to the relevant respondent;
  - (ii) suspending or terminating the appointment of the relevant respondent; or
  - (iii) taking or refraining from taking such other action (including, for the avoidance of doubt, refunding premiums paid by persons affected by the conduct of the relevant respondent) as the IARB thinks fit.

Any respondent whose appointment has been terminated in these circumstances will have their registration cancelled and will be barred from appointment and registration as an insurance agent, a Responsible Officer or Technical Representative for a specified period as determined by the IARB;

- (f) when taking disciplinary or other action and/or when requiring any Principal or any Registered Person (including the respondent's appointing insurance agent) to take disciplinary or other action, the IARB shall serve upon:
  - (i) any party who is the subject of disciplinary or other action;
  - (ii) any Principal or Registered Person (including the respondent's appointing insurance agent) required to take or otherwise likely to be adversely affected by disciplinary or other action;

a notification of the disciplinary or other action and a statement of the grounds thereof; and



- (g) if a relevant Principal and/or Registered Person (including the respondent's appointing insurance agent) fails to comply with a requirement to take disciplinary or other action, the IARB may report such failure to the Insurance Authority and may impose a further requirement by way of disciplinary or other action on the Principal or Registered Person (including the respondent's appointing insurance agent) who has failed to comply.
45. Any personal data or other information provided by or on behalf of the IARB to a Registered Person, Principal or other person bound by this *Code* in connection with any investigation or proceedings under clauses 44 to 48 of this *Code* shall be treated by the recipient as confidential and shall only be used for the purposes of responding to or conducting the investigation or proceedings (including any related appeal) unless otherwise agreed by the IARB.
46. For the purposes of clause 44(f) above, notification of a decision shall be deemed to take place upon the IARB dispatching a letter by post to the relevant party's last known correspondence address as recorded in the IARB's records. It shall be the relevant party's responsibility to ensure that the IARB is advised of any change in their correspondence address and that any correspondence sent to that address is collected. Notification shall be deemed to have been given irrespective of whether correspondence is actually received. Where a decision involves the suspension or termination of appointment of a Registered Person, the IARB shall ensure any current appointing Principal and/or appointing insurance agent is notified of the decision before proceeding to cancel the registration of the Registered Person.
47. Any complaints in connection with a Registered Person or a breach of this *Code* shall be made as soon as practicable. The IARB reserves the right to decline to investigate a complaint where it appears that a complainant has unreasonably delayed in making the complaint or where the IARB is unable to investigate the complaint due to long lapse of time.
48. Registered Persons and Principals shall comply with any directions issued by the IARB in connection with the conduct of investigations or proceedings carried out under clauses 44 to 47 of this *Code*. The IARB may, in its discretion, vary the procedures provided for in clauses 44 to 47 in any particular case where the IARB considers it appropriate to do so.

## Appeals

49. There shall be an Appeals Tribunal who shall determine appeals against decisions of the IARB made under this *Code*. The decisions of the Appeals Tribunal shall be final.
50. 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. The Appeals Tribunal Proceedings Rules may prescribe time limits within which any application for appeal must be made. Registered Persons and Principals shall comply with any directions issued by the Appeals Tribunal in connection with the conduct of appeals under clauses 49 to 56 of this *Code*.





51. 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.
52. An appeal to the Appeals Tribunal shall lie in the following circumstances:
  - (a) Where the IARB refuses to confirm an application for registration under clause 43(f), the applicant shall be entitled to appeal to the Appeals Tribunal; and
  - (b) Where the IARB determines to impose disciplinary or other action under clause 44(e), the party who is the subject of the disciplinary or other action shall be entitled to appeal to the Appeals Tribunal.
53. Any decision of the IARB which is subject to a right of appeal shall only take effect 14 days after the party with a right of appeal has been notified of the decision.
54. Any party with a right of appeal in respect of a decision of the IARB may apply to the IARB for a stay of the IARB's decision pending the outcome of their appeal, which application may be granted at the IARB's discretion. If an application for a stay is made prior to the decision of the IARB taking effect, the decision of the IARB shall not take effect until the IARB has determined the stay application. If an application for a stay is made after the decision of the IARB has taken effect, the decision of the IARB shall continue in effect pending determination of the application and the IARB, in deciding whether to grant a stay, will consider whether a stay is reasonable and practicable in the circumstances.
55. Any personal data or other information or documentation provided by or on behalf of the Appeals Tribunal to a Registered Person, Principal or other person bound by this *Code* in connection with an appeal under clauses 49 to 56 of this *Code* shall be treated by the recipient as confidential and shall only be used for the purposes of conducting the appeal unless otherwise agreed by the Appeals Tribunal.
56. On determining an appeal the Appeals Tribunal may confirm, vary or reverse the decision being appealed or substitute such other decision, consistent with the powers of the IARB, as it thinks fit.

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

57. The IARB may report any matters concerning a complaint or an investigation under clause 44 (including the complaint made, the relevant Principal's or the appointing insurance agent's report, the disciplinary action required or any other relevant matter) 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.

# P A R T E Fit and Proper Criteria for Registered Persons

## Matters Relevant to Fitness and Properness of Registered Persons

58. In considering whether a person is fit and proper to be or continue to be registered as a Registered Person, the IARB may take into account:
- (a) whether that person has ever been declared bankrupt;
  - (b) whether that person has ever been a controller, a director, a company secretary or a senior manager of a corporation that has become insolvent in Hong Kong or elsewhere;
  - (c) whether the person has acquired educational or other qualifications commensurate with his proposed responsibilities or responsibilities as a Registered Person;
  - (d) whether the person has ever been convicted of any criminal offence in Hong Kong or elsewhere which may affect his fitness, suitability or properness to be registered as a Registered Person;
  - (e) whether the person has ever been found guilty of misconduct in a profession, trade or industry to which he belongs or has belonged;
  - (f) whether the person has ever been subject to any order of the court or other competent authority in Hong Kong or elsewhere for fraud, dishonesty or misfeasance;
  - (g) whether the person has failed to conduct insurance agency business in a manner complying with clauses 73 to 83 (Part F: Minimum Requirements of Model Agency Agreement and Part G: Conduct of Registered Persons) of this *Code* and/or the rules of the HKFI;
  - (h) whether the person is or has ever been found not to have complied with or to be in breach of this *Code* and/or the rules of the HKFI;
  - (i) whether the person possesses the qualifications specified in clauses 61 to 70 (Minimum Qualifications for Persons to be registered as Registered Persons);
  - (j) whether the person has been registered as an MPF intermediary with the MPFA where the person is engaged in selling or advising on Mandatory Provident Fund schemes or their constituent or underlying funds;
  - (k) if the person is or has been an MPF intermediary, whether the person is found not to have complied with or is in breach of the *MPF Code*;
  - (l) 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 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 is engaged in selling or advising on Mandatory Provident Fund schemes or their constituent or underlying funds; and
- (m) such other matters as the IARB considers relevant in the circumstances.
59. The IARB may consider a person not fit and proper to be or continue to be registered as a Registered Person if:
- (a) his appointment as a Registered Person was terminated by a Principal or appointing 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 Registered Person.
60. The IARB may consider a person not fit and proper to be or continue to be registered as an insurance agent if:
- (a) its appointed Responsible Officers or any of its 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 requirements specified in clauses 61(b) to (d) and 70 are not applicable to any controller or director not being an insurance agent, a Responsible Officer or Technical Representative.

#### **Minimum Qualifications for Persons to be Registered as Registered Persons**

61. The minimum qualifications that an individual must fulfill before he may be considered by the IARB to be fit and proper to be registered as a Registered Person are that:
- (a) he has attained the age of 18;
  - (b) he is a Hong Kong Permanent Resident or Hong Kong Resident whose employment visa conditions, if any, do not restrict him from acting as an insurance agent, a Responsible Officer or a Technical Representative;
  - (c) he has completed education to a level of Form 5 or equivalent unless he was engaged in the insurance intermediary business in Hong Kong immediately before 1 January 2000 and has not since ceased to be engaged in insurance-related work in the insurance industry in Hong Kong for two consecutive years;
  - (d) he has successfully passed the relevant papers of the Insurance Intermediaries Qualifying Examinations recognized by the Insurance Authority (the Qualifying Examinations) unless he has been exempted under the criteria specified in clauses 64 to 66 as appropriate; and
  - (e) he complies with such rules and policies as may be prescribed by the Insurance Authority or the HKFI as applicable to him from time to time.

62. The Qualifying Examinations consist of the following Papers:
- (a) Paper I - Principles and Practice of Insurance;
  - (b) Paper II - General Insurance;
  - (c) Paper III - Long Term Insurance;
  - (d) Paper IV - MPF Schemes;
  - (e) Paper V - Investment-linked Long Term Insurance;
  - (f) Paper VI - Travel Insurance Agents; and/or
  - (g) such other examinations as may be prescribed by the Insurance Authority from time to time.
63. Subject always that no Registered Person shall be engaged in a class of insurance business other than that his Principal or his appointing insurance agent is authorized to conduct, a Registered Person, unless exempted under clauses 64 to 66 as appropriate, is only eligible to be engaged in a Line of Insurance Business in respect of which he has passed the relevant Qualifying Examination paper(s). An individual must pass:
- (a) Papers I and II before he can be registered to be engaged in General Business;
  - (b) Papers I and III before he can be registered to be engaged in Long Term (excluding Linked Long Term) Business;
  - (c) Papers I, III and V before he can be registered to be engaged in Long Term (including Linked Long Term) Business; and/or
  - (d) Paper VI before he can be registered to be engaged in the Restricted Scope Travel Business.
64. An individual shall be exempted from Papers I, II, III and VI as appropriate of the Qualifying Examinations referred to in clause 62 if he:
- (a) was engaged in the insurance intermediary business in Hong Kong 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 (ACII/FCII);
    - (ii) Senior Associate or Fellow of the Australian and New Zealand Institute of Insurance and Finance [ANZIIF (Snr Assoc) / ANZIIF (Fellow)];
    - (iii) Fellow of the Life Management Institute (FLMI);
    - (iv) Chartered Life Underwriter (CLU);
    - (v) Chartered Property Casualty Underwriter (CPCU);
    - (vi) Hong Kong Diploma in Insurance Studies of the Insurance Institute of Hong Kong;
    - (vii) Fellow of the Institute of Actuaries of England (FIA);
    - (viii) Fellow of the Faculty of Actuaries in Scotland (FFA);





- (ix) Fellow of the Institute of Actuaries of Australia (FIAA); or
- (x) Fellow of the Society of Actuaries of the United States of America (FSA);  
or other qualifications acceptable to the Insurance Authority.

65. Other than clause 64, an individual shall be exempted from Paper VI of the Qualifying Examinations if he has passed Papers I and II of the Qualifying Examinations.
66. From 1 March 2010, the exemption in sub-clause (a)(i) to (ii) inclusive below will no longer apply. From that time, Registered Persons may engage or continue to engage in Long Term (including Linked Long Term) Business in accordance with GN11-Guidance Note Applicable to Registered Persons Wishing to Engage/Continue to Engage in Investment-linked Long Term Insurance Business on or after 1 March 2010 as in force from time to time.

An individual shall be exempted from Paper V of the Qualifying Examinations if he:

- (a) was engaged in long term insurance intermediary business in Hong Kong immediately before 1 January 2002 and has fulfilled all of the following:
    - (i) has proven long term insurance experience in Hong Kong for a cumulative period of at least seven years within the eight-year period immediately before 1 January 2002; and
    - (ii) has proven experience in Hong Kong in selling at least four linked long term policies per annum and 50 linked long term policies in total within the five-year period immediately before 1 January 2002;
  - or
  - (b) is in possession of any of the following recognized professional qualifications in insurance, investment or actuarial science:
    - (i) Chartered Life Underwriter (CLU) with an elective paper "HS 328 Investments" in the CLU qualifying examination successfully passed;
    - (ii) Chartered Financial Consultant (ChFC);
    - (iii) Certified Financial Planner (CFP);
    - (iv) Fellow of the Institute of Actuaries of England (FIA);
    - (v) Fellow of the Faculty of Actuaries in Scotland (FFA);
    - (vi) Fellow of the Institute of Actuaries of Australia (FIAA);
    - (vii) Fellow of the Society of Actuaries of the United States of America (FSA);
    - (viii) Foundation Programme Examination of the Hong Kong Securities Institute (FPE) successfully passed;
    - (ix) Diploma Programme Examination of the Hong Kong Securities Institute (DPE) successfully passed;
    - (x) HKSI Practising Certificate of the Hong Kong Securities Institute;
    - (xi) HKSI Specialist Certificate of the Hong Kong Securities Institute; or
    - (xii) HKSI Professional Diploma in Financial Markets of the Hong Kong Securities Institute;
- or other qualifications acceptable to the Insurance Authority.

67. Subject always that no Registered Person shall be engaged in a class of insurance business other than that his Principal or his appointing insurance agent is authorized to conduct:

- (a) a Registered Person who has been exempted under clause 64(a)(i) is eligible to be engaged in the Line of Insurance Business [only for (i) General Business or Restricted Scope Travel Business, and (ii) Long Term (excluding Linked Long Term) Business] in which he has been engaged for five years within the six-year period immediately before 1 January 2000 or has substantially been engaged during that five-year period;
- (b) a Registered Person who has been exempted under clause 64(a)(ii) is eligible to conduct general insurance agency business or restricted scope travel insurance agency business;
- (c) a Registered Person who has been exempted under clause 64(b)(i) to (vi) is eligible to conduct general and long term (excluding linked long term) insurance agency business and restricted scope travel insurance agency business;
- (d) a Registered Person who has been exempted under clause 64(b)(vii) to (x) and clause 66(b)(iv) to (vii) is eligible to conduct general, long term (excluding linked long term) and long term (including linked long term) insurance agency business and restricted scope travel insurance agency business;
- (e) a Registered Person who is eligible to conduct long term (excluding linked long term) insurance agency business and has been exempted under clause 66 is also eligible to conduct long term (including linked long term) insurance agency business;

but such Registered Persons are not eligible to conduct any additional insurance agency business unless qualified to conduct such business under another clause of this *Code*.

68. Subject to GN11 - Guidance Note Applicable to Registered Persons Wishing to Engage/Continue to Engage in Investment-linked Long Term Insurance Business on or after 1 March 2010 as in force from time to time, an individual who has ceased to be engaged in insurance-related work in the insurance industry in Hong Kong for two consecutive years shall pass the relevant papers of the Qualifying Examinations before he can be re-appointed and registered as a Registered Person, unless he has been exempted under clauses 64(b) and 66(b) as appropriate.

69. Subject to GN11 - Guidance Note Applicable to Registered Persons Wishing to Engage/Continue to Engage in Investment-linked Long Term Insurance Business on or after 1 March 2010 as in force from time to time, an individual who has passed the relevant papers of the Qualifying Examinations for two consecutive years during which he has not been engaged in insurance-related work in the insurance industry in Hong Kong, shall pass the relevant papers of the Qualifying Examinations again before he can be appointed and registered as a Registered Person, unless he has been exempted under clauses 64(b) and 66(b) as appropriate.





70. All Registered Persons shall comply with the requirements of the Continuing Professional Development Programme in such manner and form as specified by the Insurance Authority.

**Insurance Agent which is an Insurance Agency**

71. An insurance agent which is an Insurance Agency shall have an appointed Responsible Officer. Subject always that no insurance agent shall be engaged in a class of insurance business other than that his/its Principal is authorized to conduct, an insurance agent which is an Insurance Agency is only eligible to be engaged in the Line of Insurance Business which its Responsible Officer is eligible to be engaged in.

**Additional Matters Relevant to Fitness and Propriety of Responsible Officers and Technical Representatives**

72. 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 in the particular Line of Insurance Business in which he intends to be registered as being engaged in the same manner as for an application for registration by an individual insurance agent.

73. 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 Registered Persons as follows for General Business and Restricted Scope Travel Business and for Long Term Business.



**Conduct of Registered Persons for General Insurance Business and Restricted Scope Travel Business**

74. A Registered Person shall at all times conduct business in good faith and with integrity.
75. In the event of a complaint concerning the conduct of a Registered Person, the Registered Person shall co-operate with the IARB and the Principal or insurance agent concerned to establish the facts. The complainant should be informed that he should in the first instance refer the complaint to the relevant Principal or insurance agent. If the complainant is still dissatisfied he may refer the matter to the IARB.
76. A Registered Person shall:
- (a) ensure that he is registered with the IARB in respect of the Line of Insurance Business to be engaged in prior to conducting such business;
  - (b) identify himself as a Registered Person acting on behalf of the Principal(s) or insurance agent he represents prior to discussing insurance policies with any person;
  - (c) disclose his registration number if so requested and identify his registration number on his business cards if they are distributed;
  - (d) display his name and registration number on the name plate put in front of the service desk or counter if he is registered as engaging in the Restricted Scope Travel Business and provides face-to-face insurance service at service desk or counter;
  - (e) give advice only on those matters in which he is competent to deal with or otherwise seek advice from his Principal(s) or appointing insurance agent when necessary;
  - (f) explain the cover afforded by each policy recommended to ensure that the potential policy holder understands what he is buying;
  - (g) explain the specific differences to which he is referring when making comparisons with other types of policies;
  - (h) treat all information supplied by a potential policy holder as confidential and disclose such information only to the Principal(s) or appointing insurance agent to which the business is being offered, and otherwise comply at all times with the provisions of the *Personal Data (Privacy) Ordinance* (Chapter 486 of the *Laws of Hong Kong*) when dealing with personal data provided by a potential or current policy holder;
  - (i) not make inaccurate or misleading statements about any Principals or appointing insurance agent or their policies, or any other intermediaries;
  - (j) 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
  - (k) not pay any part of any commission or discount allowed to him to any director, partner or employee of any insured as an inducement to place the business with the Principal or appointing insurance agent, nor assist any other Registered Person to make such a payment, unless prior agreement and approval of the payment by the insured is received in writing.



77. In assisting a potential policy holder to complete the proposal or application form, a Registered Person shall:

- (a) not influence the potential 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 potential policy holder and draw his attention to the relevant statements in the proposal form.

### **Conduct of Registered Persons for Long Term Insurance Business**

78. A Registered Person shall at all times conduct business in good faith and with integrity.

79. In the event of a complaint concerning the conduct of a Registered Person, the Registered Person shall co-operate with the IARB and the Principal or insurance agent concerned to establish the facts. The complainant should be informed that he should in the first instance refer the complaint to the relevant Principal or insurance agent. If the complainant is still dissatisfied he may refer the matter to the IARB.

80. A Registered Person shall:

- (a) ensure that he is registered with the IARB in respect of the Line of Insurance Business to be engaged in prior to conducting such business;
- (b) identify himself as a Registered Person acting on behalf of the Principal(s) or insurance agent he represents prior to discussing insurance policies with any person;
- (c) disclose his registration number if so requested and identify his registration number on his business cards if they are distributed;
- (d) make every reasonable effort to ensure that the policy proposed is suitable to the needs and resources of the potential policy holder as disclosed to the Registered Person;
- (e) give advice only on those matters in which he is competent to deal with or otherwise seek advice from his Principal(s) or appointing insurance agent when necessary;
- (f) explain the cover afforded by each policy recommended to ensure that the potential policy holder understands what he is buying;
- (g) explain the specific differences to which he is referring when making comparisons with other types of policies or forms of investment;
- (h) treat all information supplied by a potential policy holder as confidential and disclose such information only to the Principal(s) or appointing insurance agent to which the business is being offered, and otherwise comply at all times with the provisions of the *Personal Data (Privacy) Ordinance* (Chapter 486 of the *Laws of Hong Kong*) when dealing with personal data provided by a potential or current policy holder;
- (i) not make inaccurate or misleading statements about any Principals or appointing insurance agent or their policies, or any other intermediaries;
- (j) 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;
- (k) 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;



- (l) not pay or offer to pay any rebate of premium, commission or other incentive not specified in the policy as an inducement to any potential long term insurance policy holder unless specifically authorized by a Principal; and
  - (m) comply with the requirements as specified in the *MPF Code* where he is engaged in selling or advising on Mandatory Provident Fund schemes or their constituent or underlying funds.
81. In assisting a potential policy holder to complete the proposal or application form, a Registered Person shall:
- (a) not influence the potential 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 potential policy holder and draw his attention to the relevant statements in the proposal form.
82. When selling policies related to Long Term Business, a Registered Person 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 specific 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 linked long term business, explain that unit value and the value of the policy holder's benefits may fluctuate;
  - (f) unless specifically authorized by a Principal or appointing insurance agent, use only such sales proposals and illustrative figures that are supplied by the Principal or appointing insurance agent 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 he is authorized by a Principal or appointing insurance agent to prepare certain illustrations himself, prepare them using only the assumptions authorized by the Principal or appointing insurance agent.

#### **Registered Persons Not to Act in connection with Insurance Brokers**

83. A Registered Person shall not act as an authorized insurance broker, nor as the Chief Executive or Technical Representative of an authorized insurance broker.



## **Guidelines on Misconduct**

*The Code of Practice for the Administration of Insurance Agents* (the *Code*) specifies 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 of the *Code*. The phrase "in good faith and with integrity" used in this Part 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/an insurance agent under Part C or an insurance agent under Part F .

### **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 or 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 any alteration should be initialled by the customers.

### **2. An insurance agent selling a life assurance policy shall 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 themselves that insurance agents are complying with the *Code* and with any Guidance Notes issued (as required by Part C). The IARB recognizes 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 a 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 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 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 of the *Code* which stipulates 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/an insurance agent under Part C or an insurance agent under Part F.

### **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 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 of the *Code* which stipulates 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.

## **Guidance Note on Compliance with the Requirements of the Continuing Professional Development (CPD) Programme**

### **1. Background**

*The Code of Practice for the Administration of Insurance Agents* (the *Code*) specifies that the Hong Kong Federation of Insurers/the Insurance Agents Registration Board (IARB) may issue Guidance Notes from time to time as to how it intends to exercise its powers and fulfill its responsibilities under the *Code*. This Guidance Note aims to assist Registered Person(s) (RP) to comply with the annual CPD requirements. For RPs who are registered as engaging in Restricted Scope Travel Business only, please refer to Guidance Note 10.

For the purpose of this Guidance Note, any reference to "RP(s)" shall include insurance agent(s), responsible officer(s) and technical representative(s).

Part E of the *Code* under "Minimum Qualifications for Persons to be Registered as Registered Persons" stipulates:

- (a) the minimum qualifications an individual must fulfill before he may be considered by the IARB to be fit and proper to be registered as an RP; and
- (b) that an RP shall comply with the CPD requirements in such manner and form as specified by the Insurance Authority (IA).

### **2. CPD Requirements**

The IA has specified that except for travel insurance agents, their responsible officers (ROs) and technical representatives, all RPs are required to earn 10 CPD hours every year. Any excess CPD hours accumulated within a particular year cannot be carried forward to any other years.

Subject to compliance with other fitness and properness criteria, the IARB shall deem an RP having complied with the CPD requirements under the "Minimum Qualifications for Persons to be Registered as Registered Persons" of the *Code* as qualified for maintaining his registration status for another 12 months if he completes all 10 CPD hours for the assessment year within a 12-month period (i.e. from August of a particular year to 31 July of the following year) (**Assessment Year**).

### **3. CPD Assessment**

In order to comply with the CPD requirements, the following shall apply:

- (a) For the sake of clarity and easy reference:
  - (i) calendar month shall be used as the basis for calculating CPD requirements irrespective of the day of the month on which registration of a RP takes place (i.e. regardless of whether an RP is registered on, say, 1 January or 31 January, January shall be used for calculation of the required CPD hours); and
  - (ii) please refer to Annexes 2 and 3 as appropriate for the CPD hours to be reported.



- (b) If the registration of an RP has been cancelled for less than six consecutive calendar months, such RP shall be required to fulfill the CPD requirements for the entire Assessment Year, including the period of cancellation, which shall be reported as follows:
- (i) on the assessment date immediately following re-registration (if both the cancellation date and the re-registration date fall within the same Assessment Year) (see Example 1 in Annex 1 attached); or
  - (ii) at the time of re-registration (if the re-registration date falls within the next Assessment Year) (see Example 2 in Annex 1 attached).
- (c) If the registration of an RP has been cancelled for six consecutive calendar months or more, such RP shall **not** be required to earn any CPD hours before re-registration, provided that such RP shall not be registered with the IARB as an RP engaging in Restricted Scope Travel Business only; or otherwise registered as an insurance broker or a chief executive/technical representative of an insurance broker during such period. Instead, he is required to only report his CPD hours from the date of re-registration on a pro rata basis by the assessment date immediately following re-registration. Please see Annex 2 for the pro rata CPD hours required.

For the avoidance of doubt, this clause does not apply to an RP whose registration is revoked by the IARB due to non-compliance with the CPD requirements. Such person shall be required to complete all outstanding CPD hours at the time of registration.

#### **4. Assessment for Newly Registered RPs**

An RP who is newly registered (meaning a person who has never been registered as (i) an insurance agent or (ii) the responsible officer or technical representative of an insurance agent or (iii) an insurance broker or (iv) the chief executive or technical representative of an insurance broker) may choose **either** to report:

- (a) On a pro rata basis on 31 July immediately following his registration (e.g. if an RP was first registered in September 2008, he would report 9 CPD hours on 31 July 2009). Please see Annex 2 for the pro rata CPD hours required; **or**
- (b) On the next assessment date also on a pro rata basis (by using the same example above, he may report his CPD hours on 31 July 2010, i.e. 19 CPD hours for this 23-month registration period). Please see Annex 3 for the pro rata CPD hours required.

The above is also applicable to an RP who has been re-appointed after ceasing to be engaged in insurance-related work in the insurance industry in Hong Kong for two consecutive years.

#### **5. Assessment for Professionally Qualified RPs**

For RPs who are qualified pursuant to "List of specified qualifications" of the CPD Information Sheet published by the IA, they are considered to have satisfied the 10 CPD hours requirement if (a) the institutes granting such qualifications have a specific CPD programme for holders of such qualifications; and (b) they have satisfied the CPD requirements specified by the institutes granting such qualifications. Evidence of holding such qualifications/titles should be submitted by the RPs to the IARB upon request. They should also be able to produce documentary proof that compliance with the respective institute's CPD programmes is essential for the holding of such qualifications/titles.

## 6. Maintaining CPD records and Monitoring of CPD Compliance

### (a) Responsibilities of RPs:

- (i) decide on the appointing insurer responsible for reporting their CPD hours and notify all appointing insurers accordingly (if applicable);
- (ii) inform all appointing insurers if they should change the appointing insurer responsible for reporting their CPD hours (if applicable);
- (iii) complete and file a Declaration Form specified by the IARB within 2 weeks from the assessment date (i.e. by 14 August) as follows:
  - By individual insurance agents to:
    - the appointing insurer responsible for reporting their CPD hours; and
    - all other appointing insurer(s) by providing each of them with a signed copy of the Declaration Form;
  - By ROs to:
    - the appointing insurer responsible for reporting their CPD hours; and
    - all other appointing insurer(s) by providing each of them with a signed copy of the Declaration Form;
  - By technical representatives (TRs) to their appointing insurance agent; and
- (iv) retain their proof of compliance with CPD requirements (including a copy of the Declaration Forms and originals of the evidence/record of attendance) for at least a period of 3 years after the assessment date. The proof of compliance with CPD requirements should be produced as and when required by the IARB.

### (b) Responsibilities of insurance agents who have appointed TRs:

- (i) dispatch copies of Declaration Form to all of their TRs for their completion;
- (ii) arrange sufficient CPD training for their TRs, if necessary;
- (iii) issue evidence/record of attendance to a TR who has completed a course organized by the insurance agent with the number of CPD hours printed on evidence/record of attendance;
- (iv) monitor the compliance of their TRs with the CPD requirements;
- (v) collect Declaration Forms from their TRs by 14 August;
- (vi) file the Annual Return to the IARB and report on those who fail to achieve the CPD hours by 15 September; and
- (vii) offer help to their TRs in maintaining proof of compliance with CPD requirements.

### (c) Responsibilities of all insurers:

- (i) dispatch copies of Declaration Form to all of their insurance agents and ROs of their insurance agencies for their completion;
- (ii) obtain confirmation from all their insurance agents and ROs of their insurance agencies as to which appointing insurer would be responsible for reporting their CPD hours by 14 August;
- (iii) arrange sufficient CPD training for their insurance agents and ROs of insurance agencies, if necessary;
- (iv) issue evidence/record of attendance to an insurance agent or RO of their insurance agencies who has completed a course organized by the insurer with the number of CPD hours printed on the evidence/record of attendance;



- (v) monitor the compliance of their insurance agents and ROs of their insurance agencies with the CPD requirements;
- (vi) collect Declaration Forms from their insurance agents and ROs of their insurance agencies by 14 August as follows:
  - originally signed Declaration Forms for those insurers responsible for reporting CPD hours; or
  - signed copy of Declaration Forms for those insurers NOT responsible for reporting CPD hours;
- (vii) for those insurers responsible for reporting CPD hours, file the Annual Return to the IARB and report on those who fail to achieve the CPD hours by 15 September; and
- (viii) offer help to their insurance agents and ROs of their insurance agencies in maintaining proof of compliance with CPD requirements.

## **7. Consequence of Non-Compliance**

In the circumstances that an RP fails to meet the CPD requirements, his registration shall be revoked for 3 months as a starting point by the IARB. Such RP shall be required to complete all outstanding CPD hours at the time of re-registration.

In the circumstances that an RP makes a false declaration in reporting his CPD hours, his registration shall be revoked for 12 months as a starting point by the IARB. Such RP shall be required to complete all outstanding CPD hours at the time of re-registration.

In the circumstances that an RP fails to respond to the request of the IARB to produce proof of compliance with the CPD programme, his registration shall be revoked for a specified period of time as determined by the IARB. The future application for registration of such RP will not be processed unless he can produce proof of compliance.



## Examples of Calculation of CPD Hours

### Example 1

Registration date: 1 January 2008

(assuming the RP has complied with the CPD requirements on 31 July 2009)

\*De-registration date: 1 April 2010

\*\*Re-registration date: 1 June 2010 (less than 6 consecutive calendar months from the de-registration date)

Both the de-registration date\* and the re-registration date\*\* fall within the same Assessment Year.

**Report CPD hours on the assessment date immediately following re-registration: 31 July 2010**

Total number of months for report of CPD hours: 12 (from 1 August 2009 to 31 July 2010)

CPD hours to be reported: 10

### Example 2

Registration date: 1 January 2008

(assuming the RP has complied with the CPD requirements on 31 July 2009)

De-registration date: 1 June 2010

Re-registration date: 1 October 2010 (less than 6 consecutive calendar months from the de-registration date)

**Report CPD hours at time of re-registration: 1 October 2010 (date falls on the next Assessment Year)**

Total number of months for report of CPD hours: 12 (from 1 August 2009 to 31 July 2010)

CPD hours to be reported: 10

**Number of CPD hours to be reported by RPs whose registrations have been cancelled for 6 consecutive calendar months or more, by the assessment date (i.e. 31 July) immediately following re-registration**

<u>Re-registration/Registration Month</u>	<u>Total Number of Months for Reporting</u>	<u>CPD Hours</u>
August	12	10
September	11	9
October	10	8
November	9	7
December	8	6
January	7	5
February	6	5
March	5	4
April	4	3
May	3	2
June	2	1
July	1	0

**This table also applies to newly registered RPs who choose to report their CPD hours on the assessment date immediately following registration.**

**Number of CPD hours to be reported by newly registered RPs by the next Assessment Year immediately following registration**

<u>Registration Month</u>	<u>Total Number of Months for Reporting</u>	<u>CPD Hours</u>
August	24	20
September	23	19
October	22	18
November	21	17
December	20	16
January	19	15
February	18	15
March	17	14
April	16	13
May	15	12
June	14	11
July	13	10

## Guidance Note on Restricted Scope Travel Business

This Guidance Note aims to:

- A. provide waiver for a person who has not completed education to a level of Form 5 or equivalent but wishes to be registered with the Insurance Agents Registration Board (IARB) in order to be engaged in Restricted Scope Travel Business only (the Applicant); and
- B. facilitate the identification of the registration status of insurance agents, Responsible Officers and Technical Representatives engaging in Restricted Scope Travel Business.

### A. Waiver of Requirement for Form 5 Education

Clause 61(c) of the *Code of Practice for the Administration of Insurance Agents (Code)* which states "he has completed education to a level of Form 5 or equivalent unless he was engaged in the insurance intermediary business in Hong Kong immediately before 1 January 2000 and has not since ceased to be engaged in insurance-related work in the insurance industry in Hong Kong for two consecutive years; and" will not be applicable to the Applicant. Instead, the following criteria will be applicable only to and must be met by the Applicant:

- (a) he was engaged in the travel agency business in Hong Kong immediately before 15 May 2006 and has not since ceased to be engaged in travel-related work in Hong Kong for two consecutive years;
- (b) he has proven relevant experience in travel agency business in Hong Kong for a cumulative period of at least five years within the six-year period immediately before 15 May 2006;
- (c) for an Applicant who has not passed the paper on Travel Insurance Agents Examination under the Insurance Intermediaries Qualifying Examination recognized by the Insurance Authority (the Examination Paper):
  - (i) he must notify the IARB of his intention to do so by forwarding to the IARB on or before 30 April 2008 via his prospective appointing insurance agent or by himself (only if he does not have a prospective appointing insurance agent) the appropriate form of Notice attached together with a copy of his Hong Kong Identity Card; and
  - (ii) on or before 30 April 2009, he has to pass the Examination Paper; and
- (d) for an Applicant who has already passed the Examination Paper, he must on or before 30 April 2008 either:
  - (i) make an application for registration with the IARB; or
  - (ii) notify the IARB (should he decide not to apply for registration with the IARB for the time being) as stated in A.(c)(i) above.

The IARB will **not** accept any application for registration under this waiver **after** 30 April 2008 **unless** the appropriate Notice has been filed with the IARB on or before 30 April 2008.



Other than Clause 61(c), the Applicant must meet the Minimum Qualifications for Persons Acting as Insurance Agents specified in the *Code*.

Unless and until the Applicant has been successfully registered with the IARB, he shall not be engaged in Restricted Scope Travel Business.

Should the Applicant wish to be engaged in any other lines of business other than Restricted Scope Travel Business, he must fulfill all the requirements specified under the *Code*, including Clause 61(c).

**B. Identification of the Registration Status of Insurance Agents, Responsible Officers and Technical Representatives Engaging in Restricted Scope Travel Business**

The IARB may consider a person not fit and proper to act or continue acting as an insurance agent, a Responsible Officer or a Technical Representative engaging in Restricted Scope Travel Business, who provides face-to-face insurance service at service desks or counters, if he does not show his name and registration number, whether printed or in handwriting, on receipts for premium on travel insurance directly arranged by him for his clients.

## **Guidance Note on Compliance with the Requirements of the Continuing Professional Development (CPD) Programme for Registered Persons Who are Registered as Engaging in Restricted Scope Travel Business (RSTB) Only**

### **1. Background**

*The Code of Practice for the Administration of Insurance Agents (the Code) specifies 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 fulfill its responsibilities under the Code. This Guidance Note aims to assist Registered Person(s) (RP) who are registered as engaging in RSTB only to comply with the annual CPD requirements. For RPs engaging in other line(s) of business, please refer to Guidance Note 7.*

For the purpose of this Guidance Note, any reference to "RP(s)" shall include insurance agent(s), responsible officer(s) and technical representative(s).

Part E "Fit and Proper Criteria" of the *Code* stipulates:

- (a) the minimum qualifications an individual must fulfil before he may be considered by the IARB to be fit and proper to be registered as an RP; and
- (b) that an RP shall comply with the CPD requirements in such manner and form as specified by the Insurance Authority (IA).

### **2. CPD Requirements**

*The IA has specified that: "From 1 August 2008 onwards, travel insurance agents, their responsible officers and technical representatives are required to earn **3 CPD hours every year**. The first assessment date for compliance with the CPD requirements will be **31 July 2009**. Any excess CPD hours accumulated within a particular year cannot be carried forward to any other years."*

Subject to compliance with other fitness and properness criteria, the IARB shall deem an RP who is registered as engaging in RSTB only having complied with the CPD requirements under the Fit and Proper Criteria of the *Code* as qualified for maintaining his registration status for another 12 months if he completes all 3 CPD hours for the assessment year within a 12-month period ending on 31 July every year (i.e. from August of a particular year to 31 July of the following year) (**Assessment Year**).

### **3. CPD Assessment**

In order to comply with the CPD requirements, the following shall apply:

- (a) The assessment will only take into account CPD hours earned from 1 August 2008 onwards.

- (b) For the sake of clarity and easy reference:
- (i) calendar month shall be used as the basis for calculating CPD requirements irrespective of the day of the month on which registration of an RP takes place (i.e. regardless of whether an RP is registered on, say, 1 January or 31 January, January shall be used for calculation of the required CPD hours);
  - (ii) please refer to Annexes 2 and 4 as appropriate for the CPD hours to be reported.
- (c) If the registration of an RP has been cancelled for less than six consecutive calendar months, such RP shall be required to fulfil the CPD requirements for the entire Assessment Year, including the period of cancellation, which shall be reported as follows:
- (i) on the assessment date immediately following re-registration (if both the cancellation date and the re-registration date fall within the same Assessment Year) (see Example 1 in Annex 1 attached); or
  - (ii) at the time of re-registration (if the re-registration date falls within the next Assessment Year) (see Example 2 in Annex 1 attached).
- (d) If the registration of an RP has been cancelled for six consecutive calendar months or more, such RP shall **not** be required to earn any CPD hours before re-registration, provided that such RP shall not be registered with the IARB as an RP engaging in other line(s) of business; or otherwise registered as an insurance broker or a chief executive/technical representative of an insurance broker during such period. Instead, he is required to only report his CPD hours from the date of re-registration on a pro rata basis by the assessment date immediately following re-registration. Please see Annex 2 for the pro rata CPD hours required.

For the avoidance of doubt, this clause does not apply to an RP whose registration is revoked by the IARB due to non-compliance with the CPD requirements. Such person shall be required to complete all outstanding CPD hours at the time of registration.

- (e) For an RP who is registered as engaging in RSTB, if his registration is cancelled and within the same month is successfully registered with the IARB as engaging in a line of business other than RSTB, for that Assessment Year he would be required to:
- (i) report his CPD hours for the months he is registered as engaging in RSTB (excluding the month referred to in (e) above) in accordance with this Guidance Note 10; **and**
  - (ii) report his CPD hours for the months he is registered as engaging in a line of business other than RSTB (including the month referred to in (e) above) in accordance with Guidance Note 7.

Please see Example 1 in Annex 3.

- (f) For an RP who is registered as engaging in a line of business other than RSTB, if his registration is cancelled and within the same month is successfully registered with the IARB as engaging in RSTB only, for that Assessment Year he would be required to:
- (i) report his CPD hours for the months he is registered as engaging in the line of business other than RSTB (excluding the month referred to in (f) above) in accordance with Guidance Note 7; **and**
  - (ii) report his CPD hours for the months he is registered as engaging in RSTB (including the month referred to in (f) above) in accordance with this Guidance Note 10.

Please see Example 2 in Annex 3.



- (g) If the registration of an RP engaging in RSTB has been cancelled for less than six consecutive calendar months before he is successfully re-registered as engaging in a line of business other than RSTB, or vice versa, the CPD requirements for the months that he is not registered with the IARB will be based on the line of business of his re-registration, to be reported in accordance with (c) above.

Please see Examples 3 and 4 in Annex 3.

#### **4. Assessment for Newly Registered RPs**

An RP who is newly registered (meaning a person who has never been registered as (i) an insurance agent or (ii) the responsible officer or technical representative of an insurance agent or (iii) an insurance broker or (iv) the chief executive or technical representative of an insurance broker) may choose **either** to report:

- (a) On a pro rata basis on 31 July immediately following his registration (e.g. if an RP was first registered in November 2008, he would report 2 CPD hours on 31 July 2009). Please see Annex 2 for the pro rata CPD hours required; **or**
- (b) On the next assessment date also on a pro rata basis (by using the same example above, he may report his CPD hours on 31 July 2010, i.e. 5 CPD hours for this 21-month registration period). Please see Annex 4 for the pro rata CPD hours required.

The above is also applicable to an RP who has been re-appointed after ceasing to be engaged in insurance-related work in the insurance industry in Hong Kong for two consecutive years.

#### **5. Assessment for Professionally Qualified RP**

For RPs who are qualified pursuant to "List of specified qualifications" of the CPD Information Sheet published by the IA, they are considered to have satisfied the 3 CPD hours requirement if (a) the institutes granting such qualifications have a specific CPD programme for holders of such qualifications; and (b) they have satisfied the CPD requirements specified by the institutes granting such qualifications. Evidence of holding such qualifications/titles should be submitted by the RPs to the IARB upon request. They should also be able to produce documentary proof that compliance with the respective institute's CPD programmes is essential for the holding of such qualifications/titles.

#### **6. Maintaining CPD records and Monitoring of CPD Compliance**

- (a) Responsibilities of Responsible Officers (RO):
- (i) decide on the appointing insurer responsible for reporting their CPD hours and notify all appointing insurers accordingly (if applicable);
  - (ii) inform all appointing insurers if they should change the appointing insurer responsible for reporting their CPD hours (if applicable);
  - (iii) complete and file a Declaration Form specified by the IARB within 2 weeks from the assessment date (i.e. by 14 August) as follows:
    - to the appointing insurer responsible for reporting their CPD hours; and
    - to all other appointing insurer(s) by providing each of them with a signed copy of the Declaration Form; and

- (iv) retain their proof of compliance with CPD requirements (including a copy of the Declaration Forms and originals of the evidence/record of attendance) for at least a period of 3 years after the assessment date. The proof of compliance with CPD requirements should be produced as and when required by the IARB.
- (b) Responsibilities of Technical Representatives (TR):
- (i) complete and file a Declaration Form specified by the IARB within 2 weeks from the assessment date (i.e. by 14 August) to their appointing insurance agency; and
  - (ii) retain their proof of compliance with CPD requirements (including a copy of the Declaration Forms and originals of the evidence/record of attendance) for at least a period of 3 years after the assessment date. The proof of compliance with CPD requirements should be produced as and when required by the IARB.
- (c) Responsibilities of insurance agencies who have appointed TRs:
- (i) dispatch copies of Declaration Form to all of their TRs for their completion;
  - (ii) arrange sufficient CPD training for their TRs, if necessary;
  - (iii) issue evidence/record of attendance to a TR who has completed a course organized by the insurance agency with the number of CPD hours printed on evidence/record of attendance;
  - (iv) monitor the compliance of their TRs with the CPD requirements;
  - (v) collect Declaration Forms from their TRs by 14 August;
  - (vi) file the Annual Return to the IARB and report on those who fail to achieve the CPD hours by 15 September; and
  - (vii) offer help to their TRs in maintaining proof of compliance with CPD requirements.
- (d) Responsibilities of all insurers:
- (i) dispatch copies of Declaration Form to all of the RO of their insurance agencies for their completion;
  - (ii) obtain confirmation from all the RO of their insurance agencies as to which appointing insurer would be responsible for reporting their CPD hours by 14 August;
  - (iii) arrange sufficient CPD training for the RO of their insurance agencies, if necessary;
  - (iv) issue evidence/record of attendance to an RO of their insurance agencies who has completed a course organized by the insurer with the number of CPD hours printed on the evidence/record of attendance;
  - (v) monitor the compliance of the RO of their insurance agencies with the CPD requirements;
  - (vi) collect Declaration Forms from the RO of their insurance agencies by 14 August as follows:
    - originally signed Declaration Forms for those insurers responsible for reporting CPD hours; or
    - signed copy of Declaration Forms for those insurers NOT responsible for reporting CPD hours;
  - (vii) for those insurers responsible for reporting CPD hours, file the Annual Return to the IARB and report on those who fail to achieve the CPD hours by 15 September; and
  - (viii) offer help to the RO of their insurance agencies in maintaining proof of compliance with CPD requirements.

## **7. Consequence of Non-Compliance**

In the circumstances that an RP fails to meet the CPD requirements, his registration shall be revoked for 3 months as a starting point by the IARB. Such RP shall be required to complete all outstanding CPD hours at the time of re-registration.

In the circumstances that an RP makes a false declaration in reporting his CPD hours, his registration shall be revoked for 12 months as a starting point by the IARB. Such RP shall be required to complete all outstanding CPD hours at the time of re-registration.

In the circumstances that an RP fails to respond to the request of the IARB to produce proof of compliance with the CPD programme, his registration shall be revoked for a specified period of time as determined by the IARB. The future application for registration of such RP will not be processed unless he can produce proof of compliance.



## Examples of Calculation of CPD Hours

### Example 1

Registration date: 1 January 2008

\*De-registration date: 1 April 2009

\*\*Re-registration date: 1 June 2009 (less than 6 consecutive calendar months from the de-registration date)

Both the de-registration date\* and the re-registration date\*\* fall within the same Assessment Year.

**Report CPD hours on the assessment date immediately following re-registration: 31 July 2009**

Total number of months for report of CPD hours: 12 (from 1 August 2008 to 31 July 2009)

CPD hours to be reported: 3

### Example 2

Registration date: 1 January 2009

(assuming the RP has complied with the CPD requirements on 31 July 2009)

De-registration date: 1 June 2010

Re-registration date: 1 October 2010 (less than 6 consecutive calendar months from the de-registration date)

**Report CPD hours at time of re-registration: 1 October 2010 (date falls on the next Assessment Year)**

Total number of months for report of CPD hours: 12 (from 1 August 2009 to 31 July 2010)

CPD hours to be reported: 3

## Number of CPD hours to be reported by RPs whose registrations have been cancelled for 6 consecutive calendar months or more, by the assessment date (i.e. 31 July) immediately following re-registration

<u>Re-registration/Registration Month</u>	<u>Total Number of Months for Reporting</u>	<u>CPD Hours</u>
August	12	3
September	11	3
October	10	3
November	9	2
December	8	2
January	7	2
February	6	1
March	5	1
April	4	1
May	3	0
June	2	0
July	1	0

This table also applies to newly registered RPs and who choose to report their CPD hours on the assessment date immediately following registration.

## Further Examples on Calculation of CPD Hours

Applicable to cancellation of registration and re-registration within the same month

### Example 1

If an RP is registered for RSTB in August; then his registration is cancelled in November and he is re-registered for a line of business other than RSTB **in the same month** as follows:

Period of registration	Number of months registered for		CPD hours required
	RSTB	Line of business other than RSTB	
August - October	3		0 (from Annex 2)
November (month of re-registration) - July of the following year		9	7 (from Annex 5)

The total CPD hours required for the Assessment Year will be **7**.

### Example 2

If an RP is registered for a line of business other than RSTB in August; then his registration is cancelled in November and he is re-registered for RSTB **in the same month** as follows:

Period of registration	Number of months registered for		CPD hours required
	Line of business other than RSTB	RSTB	
August - October	3		2 (from Annex 5)
November (month of re-registration) - July of the following year		9	2 (from Annex 2)

The total CPD hours required for the Assessment Year will be **4**.

Applicable to cancellation of registration and re-registration NOT within the same month

**Example 3:**

If an RP is registered for RSTB in August, then his registration is cancelled in December and he is re-registered for a line of business other than RSTB in March of the following year as follows:

Period of registration	Number of months registered for		CPD hours required
	RSTB	Line of business other than RSTB	
August - December	5		1 (from Annex 2)
January - February (registration cancelled)		2	5 (from Annex 5)
March - July		5	

The total CPD hours required for the Assessment Year will be **6**.

**Example 4:**

If an RP is registered for a line of business other than RSTB in August, then his registration is cancelled in December and he is re-registered for RSTB in March of the following year as follows:

Period of registration	Number of months registered for		CPD hours required
	Line of business other than RSTB	RSTB	
August - December	5		4 (from Annex 5)
January - February (registration cancelled)		2	2 (from Annex 2)
March - July		5	

The total CPD hours required for the Assessment Year will be **6**.



**Number of CPD hours to be reported by newly registered RPs  
(commencing August 2008) by the next Assessment Year  
immediately following registration**

<u>Registration Month</u>	<u>Total Number of Months for Reporting</u>	<u>CPD Hours</u>
August	24	6
September	23	6
October	22	6
November	21	5
December	20	5
January	19	5
February	18	4
March	17	4
April	16	4
May	15	3
June	14	3
July	13	3

**The following table is extracted from Guidance Note 7 for the calculation of  
relevant CPD hours required of RP having been engaged in a line of business  
other than RSTB during an Assessment Year**

<u>Registration Month</u>	<u>Number of Months for Reporting</u>	<u>CPD Hours</u>
August	12	10
September	11	9
October	10	8
November	9	7
December	8	6
January	7	5
February	6	5
March	5	4
April	4	3
May	3	2
June	2	1
July	1	0

## **Guidance Note Applicable to Registered Persons Wishing to Engage/Continue to Engage in Investment-linked Long Term (ILLT) Insurance Business on or after 1 March 2010**

### **1. Background**

*The Code of Practice for the Administration of Insurance Agents* (the *Code*) specifies that the Hong Kong Federation of Insurers/the Insurance Agents Registration Board (IARB) may issue Guidance Notes from time to time as to how it intends to exercise its powers and fulfill its responsibilities under the *Code*.

This Guidance Note aims to assist Registered Person(s) (RP(s)) to comply with the requirements to engage in ILLT insurance business from 1 March 2010 when the enhanced Paper V - ILLT Insurance Examination Paper (enhanced IL Paper) under the Insurance Intermediaries Qualifying Examination comes into effect.

For the purpose of this Guidance Note, any reference to "RP(s)" shall include insurance agent(s), responsible officer(s) (RO(s)) and technical representative(s) (TR(s)).

Part E of the *Code* under "Minimum Qualifications for Persons to be Registered as Registered Persons" stipulates:

- (a) the minimum qualifications an individual must fulfill before he may be considered by the IARB to be fit and proper to be registered as an RP; and
- (b) that an RP shall comply with the Continuing Professional Development (CPD) requirements in such manner and form as specified by the Insurance Authority (IA).

### **2. Requirements**

The IA has specified:

- a. Commencing 1 March 2010, the existing ILLT Insurance Examination Paper (existing IL Paper) will be superseded by the enhanced IL Paper.
- b. RPs who are registered as engaging in ILLT insurance business immediately before 1 March 2010 (i.e. Serving Practitioners) shall be required to pass the enhanced IL Paper within a 2-year transitional period commencing 1 March 2010 and expiring on 29 February 2012 (Transitional Period) in order to continue to be registered as engaging in such business, unless otherwise exempted for qualifications listed under Section 3.
- c. Serving Practitioners may choose not to take the enhanced IL Paper; in which case, they will be subject to an additional CPD requirement of 20 extra hours dedicated towards the additional modules of the enhanced IL Paper (20 IL CPD hours) to be completed within the Transitional Period. These 20 IL CPD hours are in addition to the CPD requirement of 10 CPD hours per annum applicable to all RPs.

- d. An individual, who has passed the existing IL Paper, ceased to be engaged in insurance-related work in the insurance industry in Hong Kong for less than two consecutive years immediately before the date of his registration, and wishes to register for engaging in ILLT insurance business on or after 1 March 2010, could take advantage of the transitional arrangements by either passing the enhanced IL Paper or completing 20 IL CPD hours within the Transitional Period. If the date of his application for registration for engaging in ILLT insurance business is after 29 February 2012, he will be required to pass, among others, the enhanced IL Paper before his application.
- e. An individual, who has passed the existing IL Paper but is not engaged in insurance-related work in the insurance industry in Hong Kong, and wishes to register for engaging in ILLT insurance business on or after 1 March 2010, could take advantage of the transitional arrangements by either passing the enhanced IL Paper or completing 20 IL CPD hours within the Transitional Period, provided that the time between the date of the examination for the existing IL Paper and his application for registration does not exceed two consecutive years. If the date of his application for registration for engaging in ILLT insurance business is after 29 February 2012, he will be required to pass, among others, the enhanced IL Paper before his application.
- f. An individual, who has passed the existing IL Paper and is engaged in insurance-related work in the insurance industry in Hong Kong but is not registered for engaging in ILLT insurance business, could take advantage of the transitional arrangements by either passing the enhanced IL Paper or completing 20 IL CPD hours within the Transitional Period, if the date of his application for registration for engaging in ILLT insurance business falls within the Transitional Period. If the date of his application for registration for engaging in ILLT insurance business is after 29 February 2012, he will be required to pass, among others, the enhanced IL Paper before his application.

For the sake of clarity, RPs must comply with all the CPD requirements under revised Guidance Note 7, in particular, the completion of 10 CPD hours for an assessment year within a 12-month period (i.e. from August of a particular year to 31 July of the following year) in order to maintain their registration status with the IARB for another 12 months.

### 3. Exemption

Pursuant to clause 66 (b) of the *Code*, exemption from the enhanced IL Paper could be granted to holders of any of the following recognized professional qualifications in insurance, investment or actuarial science:

- Chartered Life Underwriter (CLU) who has passed the elective paper: "HS 328 Investments" of the CLU qualifying examination;
- Chartered Financial Consultant (ChFC);
- Certified Financial Planner (CFP);
- Fellow of the Institute of Actuaries of England (FIA);
- Fellow of the Faculty of Actuaries in Scotland (FFA);
- Fellow of the Institute of Actuaries of Australia (FIAA);
- Fellow of the Society of Actuaries of the United States of America (FSA);
- person who has passed the Foundation Programme Examination of the Hong Kong Securities Institute (FPE);



- person who has passed the Diploma Programme Examination of the Hong Kong Securities Institute (DPE);
- HKSI Practising Certificate of the Hong Kong Securities Institute;
- HKSI Specialist Certificate of the Hong Kong Securities Institute; or
- HKSI Professional Diploma in Financial Markets of the Hong Kong Securities Institute.

For the avoidance of doubt, effective 1 March 2010, Clause 66(a)(i) to (ii) inclusive of the Code below will no longer apply:

- "66. An individual shall be exempted from Paper V of the Qualifying Examinations if he:*
- (a) was engaged in long term insurance intermediary business in Hong Kong immediately before 1 January 2002 and has fulfilled all of the following:*
    - (i) has proven long term insurance experience in Hong Kong for a cumulative period of at least seven years within the eight-year period immediately before 1 January 2002; and*
    - (ii) has proven experience in Hong Kong in selling at least four linked long term policies per annum and 50 linked long term policies in total within the five-year period immediately before 1 January 2002;".*

#### **4. Procedures**

- (a) Responsibilities of RPs:
  - (i) pass the enhanced IL Paper or complete 20 IL CPD hours within the Transitional Period; and
  - (ii) submit proof to their appointing insurer or insurance agent, who will provide a certified true copy to the IARB on or before 7 March 2012 (i.e. 7 days after the expiration of the Transitional Period).
- (b) Responsibilities of insurance agents who have appointed TRs:
  - (i) inform their TRs of the new requirements for continuing to engage in the ILLT insurance business after 29 February 2012; and
  - (ii) certify as true copy the copies of proof submitted by their TRs and forward the same to the IARB on or before 7 March 2012 (i.e. 7 days after the expiration of the Transitional Period) for records updating.
- (c) Responsibilities of all insurers:
  - (i) inform their insurance agents and ROs of their insurance agencies of the new requirements for continuing to engage in the ILLT insurance business after 29 February 2012; and
  - (ii) certify as true copy the copies of proof submitted by their insurance agents and ROs of their insurance agencies, and forward the same to the IARB on or before 7 March 2012 (i.e. 7 days after the expiration of the Transitional Period) for records updating.

#### **5. Consequence of Non-Compliance**

If an RP cannot pass the enhanced IL Paper or complete 20 IL CPD hours pursuant to section 2 above on or before 29 February 2012, his registration for the line of ILLT insurance will be revoked by the IARB and he will not be eligible to engage in the ILLT insurance business from 1 March 2012 onwards, even though he can continue engaging in long term insurance business other than ILLT insurance business.



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