

# The future of the Insurance Industry : the role of Regulations

**A Presentation to  
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“ Whenever there is a whiff of company corruption in the air, the French detain their corporate elite for questioning, the Americans wonder when the sex angle is going to emerge and the British commission a new report on the role and effectiveness of non-executive directors”

-Michael Skapinker The Financial Times 16<sup>th</sup> March 2002

Not that they would solve the  
problems or bring about Improvements

But they are  
seen  
to be  
doing  
something

# The Politicians

Quickly demand the enactment of more rules and regulations

Would more regulations  
and stiffer penalty bring  
about a better Insurance  
Industry ?

## Establishment of the Insurance Authority

Take over the  
role and  
functions of OCI

Grow and  
develop the  
Industry

Enhance the  
public  
understanding  
and trust in the  
Industry

Promote  
professionalism  
and ethical  
conduct of  
practitioners

## Regional Hub of Insurance

## In a regulatory environment



It is essential to have effective laws and regulations

## The main purposes of the law

- **Establishing Standards**

The law is a guidepost for minimally acceptable behavior in society.

- **Maintaining Order**

The law—when enforced—provides order consistent with society's guidelines.

- **Resolving Disputes**

Disputes are unavoidable in a society made of persons with different needs, wants, values, and views. The law provides a formal means for resolving disputes—the court system.

- **Protecting Liberties and Rights**

The constitutions and statutes provide for various liberties and rights. A purpose and function of the law is to protect these various liberties and rights from violations or unreasonable intrusions by persons, organizations, or government.


# Laws (Rules and Regulations)

- "Law is the formal glue that holds fundamentally disorganized societies together."

Thomas Hobbe (English philosopher born 1588)

- "Law is the cement of society"

Glanville Williams – Learning the Law



Laws and regulations set the minimum standards which everyone in the community must observe as the proper balance between self interests and the common good of the community





Without Laws



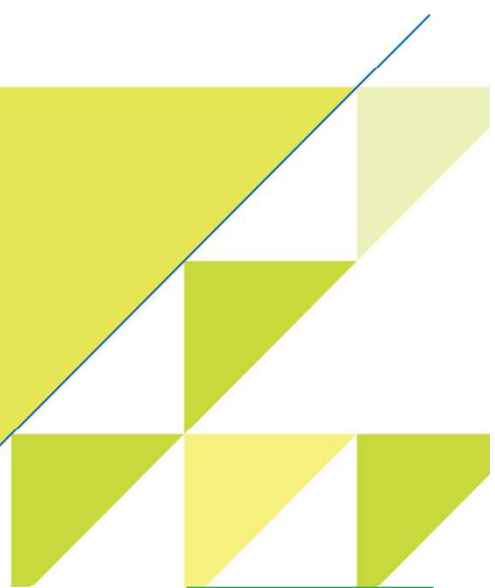
It leads to anarchy and chaos

# Laws and regulations

- are essential to preserve peace and order of the community
- But **NOT** the solutions to resolve the problems we face!
- How can laws and regulations be expected to positively bring about a better industry or community!

## OECD's Report "Regulatory Policy and the Road to Sustainable Growth" 2010

- "The effectiveness of regulatory policy has been put to a severe test with the financial crisis and recent environmental disasters.
- In many countries, regulatory inflation continues to undermine the clarity of the law. Why have current regulatory institutions, tools and processes failed to deliver consistently "fit for purpose", user-friendly regulations and regulatory frameworks?
- Can gaps in regulatory frameworks be filled without imposing unhelpful constraints on innovation and competitiveness?"



Regulatory Policy  
and the Road to  
Sustainable Growth



Effectiveness of the laws and  
regulations  
are dependent upon effectiveness of enforcement





Friday, 13<sup>th</sup>  
November,  
2015

Manila,  
Philippines

Journey from  
Airport to Hotel

2 hours 20 min.  
(20 minutes)

## A failure in governance

- The mammoth traffic jam in Metro Manila demonstrated government's helplessness in dealing with the urban problem. The five-hour traffic snarl was also a **failure in governance** on the part of local and national authorities.
- Building more roads and providing alternative transportation modes in the metropolis are the long-term solution to the traffic woes but these will take time. In the meantime, an **effective traffic enforcement is needed and authorities so far have failed to control the situation.**
- Cabinet Secretary Jose Rene Almendras suggested a “whole-of-government approach” involving the Public Works and Highways, Interior and Local Government and Transportation and Communications departments to ease traffic congestion.
- The Cabinet official should have added that **basic enforcement** of the traffic and public transportation regulations was the first step in addressing the traffic mess.



## Back in Hong Kong

- Traffic jam is everywhere !



Result of traffic violations

Would enacting  
tougher legislation /  
stiffer penalty solve  
our traffic jam  
problems ?



[dreamstime.com](http://dreamstime.com)

**Laws without effective enforcement = NO LAWS**



# Good Governance

is more than compliance with laws and regulations

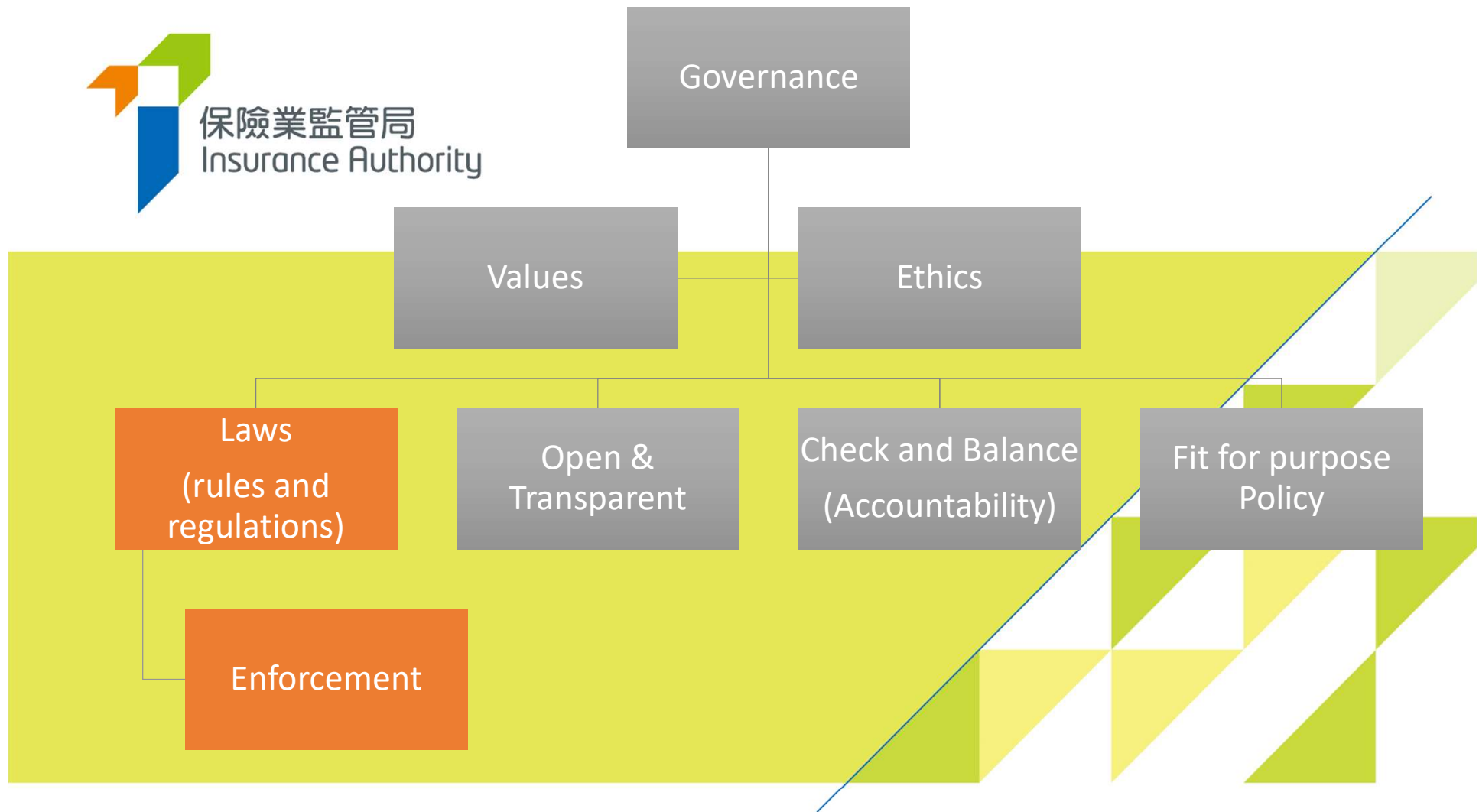
# Governance

**Policies, processes, and structures used by an organization or government**

- to direct and control its activities,
- to achieve its objectives, and
- to protect the interests of its diverse stakeholder groups

**in a manner consistent with appropriate ethical standards.**

“Governance is essentially a function of leadership and direction within an organization; appropriate risk management and control over its activities (management); and the manner in which meaningful disclosure relating to its activities is made to shareholders and other stakeholders (public engagement).”



## My Model of Effective Governance



## The New Insurance Authority

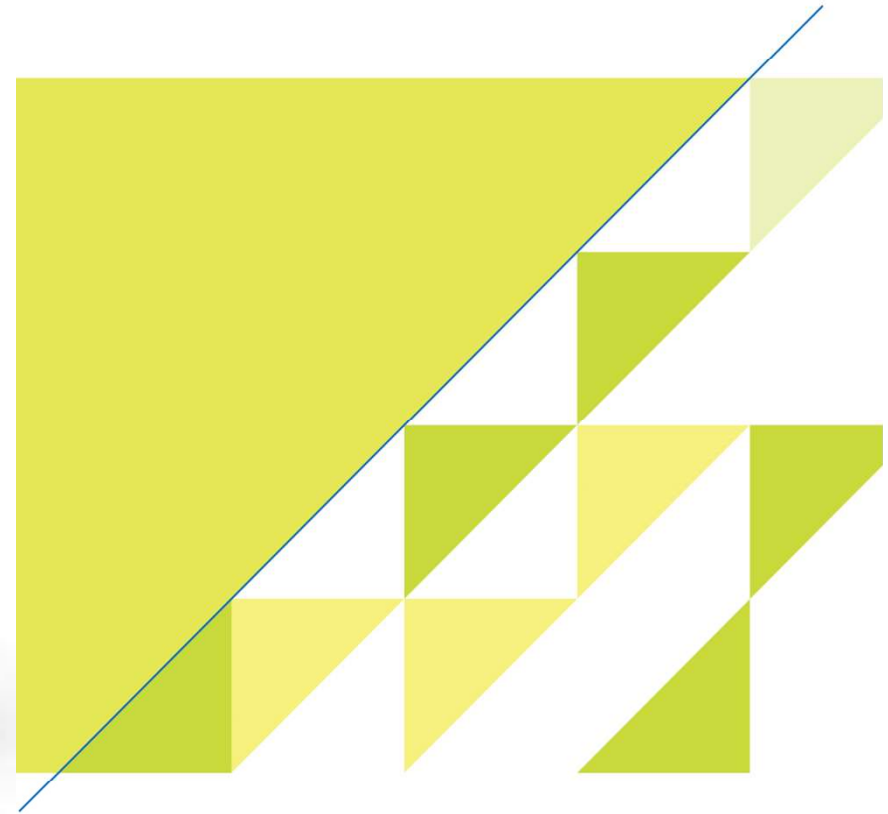
Promote the proper image and public acceptance

Take over the regulatory functions of OCI

In setting up the new Insurance Authority

Grow and develop the insurance industry together

Establish a new licensing regime of intermediaries



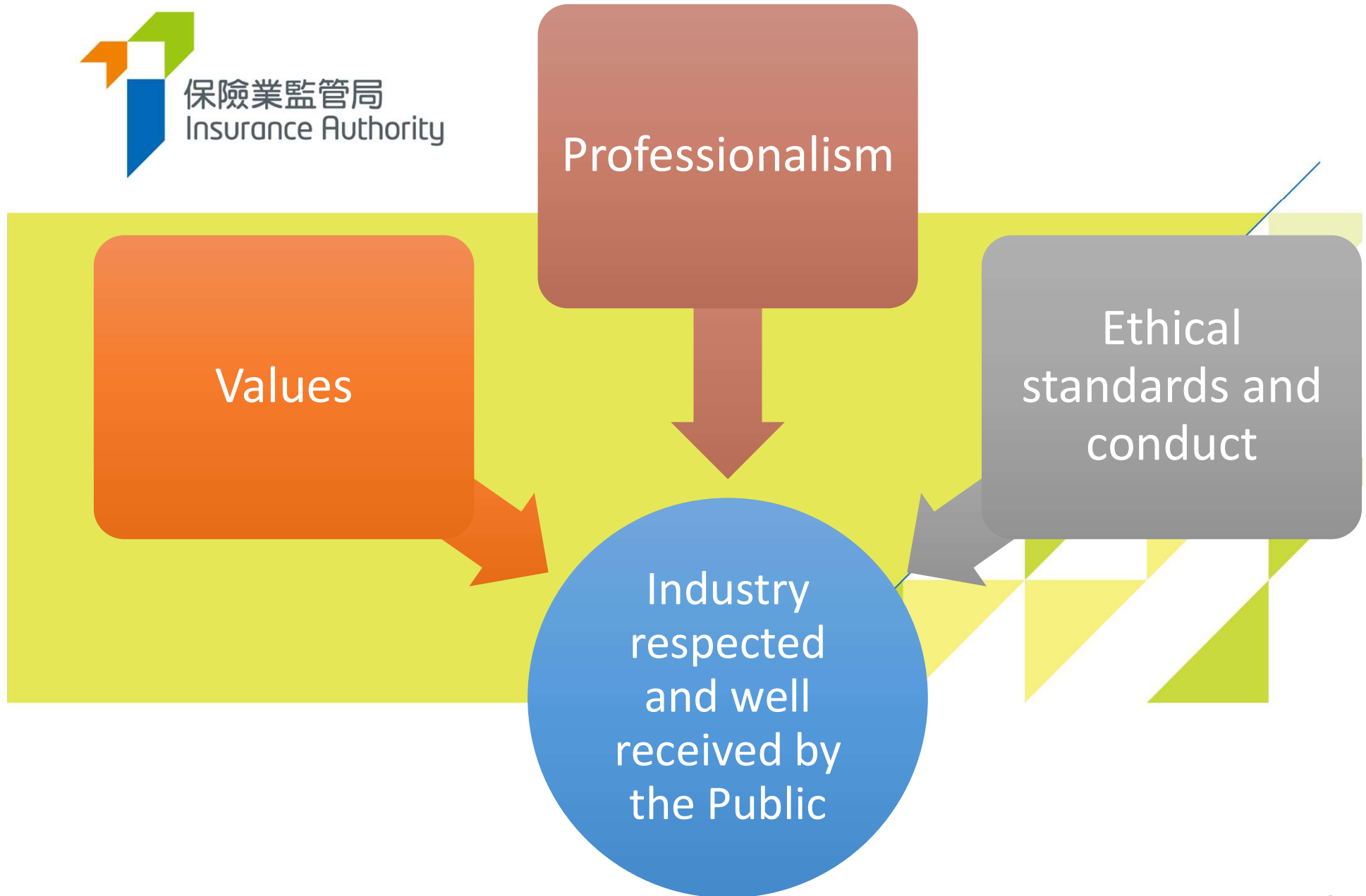
Grow and Develop the Industry

Market with good  
potential for



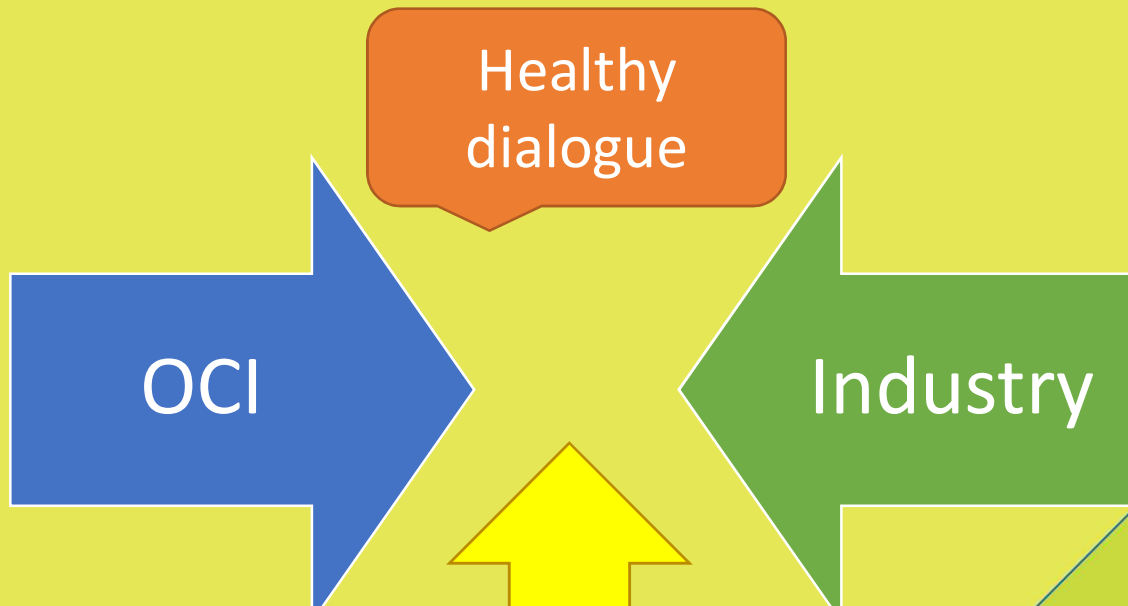
Growth  
Business







## Risk based capital system – a sensible requirement



**A model and system that are tailored to  
HK circumstances and addressing  
HK challenges**

“ The board is the guardian of the ethical values of the company and must play a central role in understanding and monitoring of ethical risks. Beyond simple compliance with regulatory frameworks, it is up to the board and the executive management of the company to define the common values and principles that should govern the conduct of the company’s activities and the behavior of its employees and to ensure their implementation.”

## Values and Ethics

“ If managers are careless about basic things – telling the truth, respecting moral codes, proper professional conduct – who can believe them on other issues ? ”

- James L Hayes, former president,  
American Management Association

# Fit and Proper person



**Minimizes the need for  
Regulatory intervention**

# Professionalism

Good  
education  
foundation

Professional  
and Technical  
Training

Structured  
Continual  
Professional  
Development

Integrity

CARE

Guideline on  
Ethical &  
Professional  
Conduct

Diligence

Responsible conduct and attitude

# Conflict of interests

When personal interests either influence, have the potential to influence, or are perceived to influence decision making, a conflict of interest situation results.

Policy on conflict of interest explains the relevant principles and rules for preventing or managing conflicts of interest and how such principles and rules are to be implemented.

# Unethical Behavior

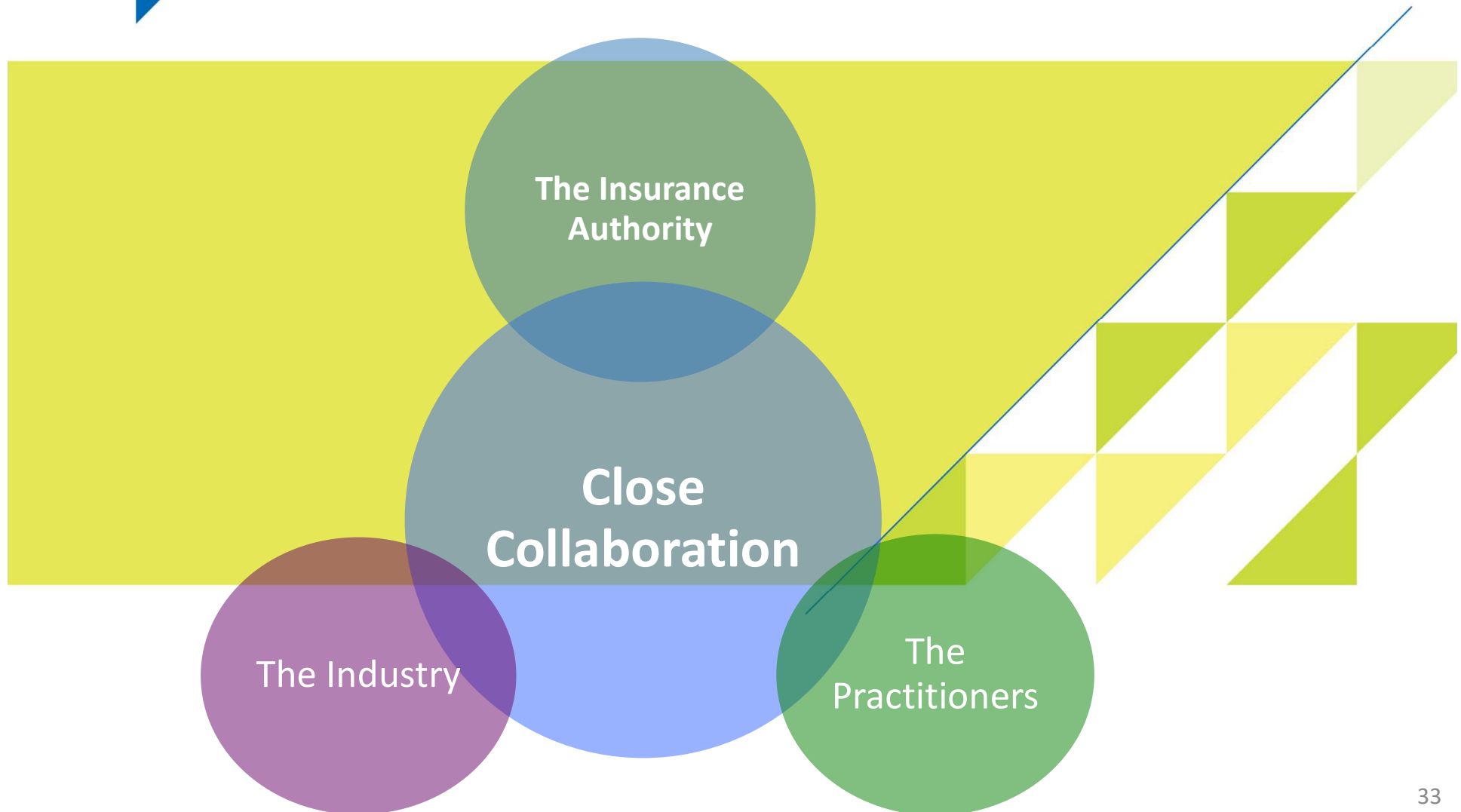
John Hendry, writer, teacher, academic pointed out :

The first, and the most characteristic of the sector, is exemplified by the **mis-selling of complex derivatives** (Goldman Sachs's Abacus products or the customised swaps sold by Bankers Trust in the 1990s),

- **the manipulation of sell-side research and IPOs, the misrepresentation of financial assets and liabilities** (off balance sheet SIVs, inappropriate mark-to-model valuations or Lehman's Repo 105s),
- **LIBOR rate-fixing,**
- In all these cases and many others it is clear from the outside – and clear in retrospect even from the inside – that the actions taken were wrong.
- But they didn't seem wrong to those engaged in them at the time. They were perceived, perhaps, as stretching the rules, but not as breaking them, and it was the rules of the game, the technical norms, that were perceived as relevant, not the social and moral norms that underpinned them.
- **Ethics just didn't enter into the matter – and that was precisely the problem.**



The future growth and development of  
the Insurance Industry is dependent on ....



“...for any overall regulatory system to succeed while maintaining a healthy industry, there must be a balance of respect and cooperation between the two (external regulation and self regulation)”

Michael Somerville

“Future of Insurance Regulations in Hong Kong”

# In growing the Insurance Industry



Walk the talk and no compromise

thank you!

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