

## **LEGISLATIVE COUNCIL BRIEF**

Insurance Companies Ordinance (Chapter 41)

### **Insurance Companies Ordinance (Amendment of Part 1 of Third Schedule) Regulation 2003**

### **Insurance Companies Ordinance (Amendment of Part 8 of Third Schedule) Regulation 2003**

## **INTRODUCTION**

**Annex A** At the meeting of the Executive Council on 14 January 2003, the Council ADVISED and the Chief Executive ORDERED that the Insurance Companies Ordinance (Amendment of Part 1 of Third Schedule) Regulation 2003 (the Part 1 Amendment Regulation), at Annex A, be made under section 59(1)(c) of the Insurance Companies Ordinance (the Ordinance) to enhance the integrity of information submitted to the Insurance Authority (IA).

**Annex B** 2. Correspondingly, with the approval of the Secretary for Financial Services and the Treasury (SFST), IA has made the Insurance Companies (Amendment of Part 8 of Third Schedule) Regulation 2003 (the Part 8 Amendment Regulation), at Annex B.

## **JUSTIFICATIONS**

3. At present, the Ordinance requires only insurers who carry on general insurance business (general insurers) to submit information on their Hong Kong general insurance business, i.e., where the risk of that general business is underwritten in Hong Kong. Insurers who carry on long term insurance business (long term insurers) are not subject to such a requirement in respect of their Hong Kong long term insurance business. Such information however is provided to IA on a voluntary basis.

4. There has been significant growth in the long term insurance market in recent years. The premiums for long term business increased from \$27.8 billion in 1996 to \$56.8 billion in 2001, representing an increase of 104% over these years. It is important that IA is provided with reliable, timely and relevant information in respect of long term insurers to enable him to better exercise his regulatory functions under the law. Towards this end, the IA will supplement the present set of statutory

forms (Forms L1, L2 and L3) by requiring long term insurers to submit further information in, and together with, the new statutory forms (Forms HKL1, HKL2 and HKL3). This is to be achieved by the IA making the Part 8 Amendment Regulation under section 59(2)(a) of the Ordinance with the prior approval of SFST. The information to be submitted pertains to the *local* operations of long term insurers.

5. To ensure the integrity of information submitted to the IA, we will impose a statutory auditing requirement in respect of the information to be submitted in Form HKL1 by amending Part 1 of the Third Schedule of the Ordinance. It is also necessary to provide for a definition of “Hong Kong long term insurance business” in the same Schedule. These amendments are effected by the Part 1 Amendment Regulation.

## **OTHER OPTIONS**

6. The only other option is to continue with the present voluntary arrangement. To continue with the present voluntary arrangement in the absence of a clear delineation of “Hong Kong long term insurance business” and an audit requirement would mean less certainty as to the timeliness and integrity of the information submitted to the IA. Such an approach is not satisfactory. From the prudential supervision point of view, it is imperative for the IA to work on timely and reliable information on an insurer’s operation and exposure of long term business in Hong Kong. The present voluntary arrangement falls short of providing such assurance. The insurance industry also perceives differential treatment between general and long term insurers under the present regime because the former are required by law to submit specified information on their Hong Kong businesses to the IA while long term insurers are not subject to the same requirement in respect of their Hong Kong business.

## **THE REGULATIONS**

7. The Part 8 Amendment Regulation imposes a duty on a long term insurer to submit annually to the IA specific information in relation to the long term insurance business carried on by it in Hong Kong in, and together with, the new forms prescribed in that Regulation (section 2 of that Regulation).

8. The Part 1 Amendment Regulation adds a definition of “Hong Kong long term insurance business” (item 1(a)(ii) and (c) in the Schedule of that Regulation) and specifies the audit requirement in respect of Form

HKL1 submitted by long term insurers (item 2(c) in that Schedule). As for Forms HKL2 which provides for valuation of sums assured and annualized net premium etc, and HKL3 which presents the valuation balance sheet and specifies the amount of net liabilities and long term insurance funds of a long term insurer, we consider it sufficient to seek confirmation by the chief executive and two directors of the concerned insurer as to the accuracy of the information contained in the two forms. This approach also avoids creating an undue burden on long term insurers.

## **LEGISLATIVE TIMETABLE**

9. The legislative timetable of the Regulations is as follows: -

Publication in the Gazette	17 January 2003
Tabling in the Legislative Council	22 January 2003
Commencement	3 April 2003

10. Long term insurers will have to submit the statistics in prescribed forms starting for the financial years ending on or after 31 December 2003.

## **IMPLICATIONS OF THE PROPOSAL**

11. As insurers already submit similar statistics voluntarily, the Regulations do not have any financial, civil service or sustainability implications. The economic implications are also expected to be insignificant. The Regulations do not affect the current binding effect of the Ordinance and are also in conformity with the Basic Law, including the provisions concerning human rights.

## **PUBLIC CONSULTATION**

12. The Hong Kong Federation of Insurers and the Hong Kong Society of Accountants have been consulted and both support the amendments to the Third Schedule of the Ordinance.

## **PUBLICITY**

13. A press release will be issued on 16 January 2003. A spokesman will be available to answer media and public enquiries.

## **BACKGROUND**

14. At present, around two-thirds of our long term insurers are incorporated outside Hong Kong. The Ordinance requires long term insurers to appoint an actuary to conduct periodic actuarial investigation and submit the results to IA. The submission is complemented by information as contained in existing statutory forms, Forms L1, L2 and L3, which set out the financial position of the insurers concerned on a *global* basis. While this is adequate for the purpose of assessing the solvency position of long term insurers, it falls short of providing IA with information on insurers' *local* operations. Since 1991, long term insurers have been requested to submit voluntarily to IA information on their local operations.

15. The IA considers it appropriate to turn the voluntary arrangement into a statutory requirement. The information required will be similar to that already provided under the existing voluntary arrangement, including the number of contracts, premium receivable, claims payable, annualized net premiums, net liabilities, and business funds available.

## **ENQUIRIES**

16. For any enquiries, please contact Miss Patricia So, Assistant Secretary for Financial Services and the Treasury (Financial Services), at 2527 8166.

**Financial Services and the Treasury Bureau/  
Office of the Commissioner of Insurance  
16 January 2003**

**INSURANCE COMPANIES ORDINANCE (AMENDMENT OF  
PART 1 OF THIRD SCHEDULE) REGULATION 2003**

(Made by the Chief Executive in Council under section 59(1)(c)  
of the Insurance Companies Ordinance (Cap. 41))

**1. Commencement**

This Regulation shall come into operation on 3 April 2003.

**2. Application**

This Regulation applies to an insurer within the meaning of the Insurance Companies Ordinance (Cap. 41) in respect of its financial year ending on or after 31 December 2003 and every successive financial year.

**3. Accounts and Statements**

Part 1 of the Third Schedule to the Insurance Companies Ordinance (Cap. 41) is amended as indicated in the Schedule.

SCHEDULE

[s. 3]

Item	Provision affected	Amendment
1.	Paragraph 1	<p>(a) In subparagraph (1) -</p> <p>(i) repeal paragraph (a) of the definition of "Hong Kong insurance business" and substitute -</p> <p>"(a) any direct business or facultative reinsurance business, being general business, in relation to which the risk is underwritten in Hong Kong, that is to say—</p> <p>(i) the policy is issued in Hong Kong;</p>

- (ii) the proposal form, application form or any other form of a similar nature is prepared or signed in Hong Kong;
- (iii) the proposal form, application form or any other form of a similar nature is submitted or received in Hong Kong;
- (iv) the proposal form, application form or any other form of a similar nature is accepted in Hong Kong; or
- (v) the risk is accepted in Hong Kong; or";

(ii) add -

""Hong Kong long term insurance business"

(香港長期保險業務) means -

- (a) any direct business or facultative reinsurance business, being long term business, in relation to which the risk is underwritten in Hong Kong, that is to say -
  - (i) the policy is issued in Hong Kong;
  - (ii) the proposal form, application form or any other form of a

- similar nature is signed in Hong Kong;
- (iii) the proposal form, application form or any other form of a similar nature is submitted or received in Hong Kong;
  - (iv) the proposal form, application form or any other form of a similar nature is accepted in Hong Kong; or
  - (v) the risk is accepted in Hong Kong; or
- (b) any treaty reinsurance business, being long term business, in relation to which the risk is underwritten in Hong Kong, that is to say -
- (i) the treaty is signed in Hong Kong;
  - (ii) the treaty is accepted in Hong Kong; or

(iii) the treaty negotiation is concluded in Hong Kong,

but does not include any treaty reinsurance business in respect of which less than 25% of the total risk (calculated in terms of the gross premiums receivable under the treaty) arises in Hong Kong within the meaning of subparagraph (3);".

(b) In subparagraph (2), repeal "this paragraph" and substitute "paragraph (b) of the definition of "Hong Kong insurance business",".

(c) Add -

"(3) For the purposes of paragraph (b) of the definition of "Hong Kong long term insurance business", a risk is deemed to arise in Hong Kong, if -

(a) the policy holder being an individual is resident in Hong Kong; or

(b) the policy holder is a company within the meaning of section 2 of the Companies Ordinance



(Cap. 32)."

2. Paragraph 4(1A)
- (a) Add "(except the forms to be submitted in Form HKL2 and Form HKL3 under Part 8)" after "this Schedule".
  - (b) In sub-subparagraph (a) -
    - (i) add "(except Form HKL1)" before "under";
    - (ii) repeal "business; and" and substitute "business;".
  - (c) Add -
    - "(aa) with respect to Form HKL1 under Part 8, annex a report to the form stating whether or not in his opinion -
      - (i) the insurer maintains proper records in accordance with section 16 of this Ordinance for the purposes of preparing the form; and
      - (ii) the form has been properly prepared in accordance with those records; and".

Clerk to the Executive Council

COUNCIL CHAMBER

2003

### **Explanatory Note**

The purpose of this Regulation is to amend Part 1 of the Third Schedule to the Insurance Companies Ordinance (Cap. 41) ("the Ordinance"). The amendments are necessary in view of the enactment of the Insurance Companies Ordinance (Amendment of Part 8 of Third Schedule) Regulation 2003 (L.N. of 2003).

2. Under section 59(2)(a) of the Ordinance, the Insurance Authority may, with the approval of the Secretary for Financial Services and the Treasury, by regulations amend Parts 2 to 9 of the Third Schedule to the Ordinance. The power to amend Part 1 of that Schedule by regulations is however given to the Chief Executive in Council under section 59(1)(c) of the Ordinance.

3. The Insurance Companies Ordinance (Amendment of Part 8 of Third Schedule) Regulation 2003 (L.N. of 2003) seeks to introduce additional requirements and new forms in respect of submitting revenue accounts and other information to the Insurance Authority by an insurer who carries on "Hong Kong long term insurance business". It is then necessary to amend Part 1 of the Third Schedule to the Ordinance to define the term "Hong Kong long term insurance business" referred to in the amended Part 8 of that Schedule. In addition, paragraph 4(1A) in Part 1 of that Schedule also needs to be amended to require a revenue account submitted in Form HKL1 to be audited.

4. Minor amendments are also made to the definition of "Hong Kong insurance business" in paragraph 1(1) of Part 1 of the Third Schedule to the Ordinance and paragraph 1(2) of that Part.

**INSURANCE COMPANIES ORDINANCE (AMENDMENT OF  
PART 8 OF THIRD SCHEDULE) REGULATION 2003**

(Made under section 59(2)(a) of the Insurance Companies Ordinance (Cap. 41)  
with the approval of the Secretary for Financial Services and the Treasury)

**1. Commencement**

This Regulation shall come into operation on 3 April 2003.

**2. Accounts and Statements**

Part 8 of the Third Schedule to the Insurance Companies Ordinance  
(Cap. 41) is amended -

(a) in the heading, by adding “AND HONG KONG LONG  
TERM INSURANCE BUSINESS” before “OF AN  
INSURER”;

(b) by adding at the end -

“41. (1) Subject to subparagraphs (5) and (6), an insurer who is  
authorized to carry on long term business shall, in relation to the Hong Kong  
long term insurance business carried on by it, submit to the Insurance Authority

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(a) if its financial year ends on 31 December, in respect of the  
financial year ending on 31 December 2003; or

(b) in any other case, in respect of the first financial year  
ending after 31 December 2003,

and in respect of every successive financial year -

(c) the revenue account, together with the supplementary  
information, specified in subparagraph (2);

(d) the valuation summary specified in subparagraph (3); and

(e) the valuation balance sheet, together with the  
supplementary information, specified in subparagraph (4).

(2) The revenue account referred to in subparagraph (1)(c) is, in respect of each class of business specified in Part 2 of the First Schedule, a revenue account, in Form HKL1, and the supplementary information referred to in that subparagraph is –

- (a) the date up to which the valuation referred to in section 18(1)(a) or 32(1)(a) of this Ordinance (“the valuation”) is made;
- (b) the principles on which the valuation and distribution of profits among the policy holders are made, and whether those principles were determined by the instrument constituting the insurer or by the insurer's regulations or bylaws or otherwise;
- (c) the table or tables of mortality used in the valuation;
- (d) the rate or rates of interest assumed in the calculations;
- (e) the proportion of the annual premium income reserved as a provision for future expenses and profit or, if no such provision is made, a statement as to what provision is made;
- (f) the period during which a policy must be in force in order to entitle the policy holders to share in the profits; and
- (g) the results of the valuation, in respect of the Hong Kong long term insurance business carried on by the insurer, showing –
  - (i) the total amount of profit made by the insurer;
  - (ii) the amount of profit divided among the policy holders, and the number and amount of the policies which participated; and
  - (iii) the amount of profit brought forward from the previous valuation, the amount of profit allotted to

policy holders and shareholders.

(3) The valuation summary referred to in subparagraph (1)(d) is a valuation summary, as at the date up to which the valuation is made, in Form HKL2.

(4) The valuation balance sheet referred to in subparagraph (1)(e) is a valuation balance sheet, as at the date up to which the valuation is made, in Form HKL3, and the supplementary information referred to in that subparagraph is particulars of the average rate of interest yielded by the assets (whether invested or uninvested) constituting the long term business fund of the insurer, or that part of the fund, which is attributable to the Hong Kong long term insurance business carried on by it ("Hong Kong fund"), calculated on the mean Hong Kong fund of the financial year.

(5) If, during a financial year, an insurer authorized to carry on long term business does not carry on Hong Kong long term insurance business in respect of which information would have had to be submitted under subparagraph (1) had the insurer carried on such business, the insurer shall submit a statement to that effect.

(6) A statement required to be submitted under subparagraph (5) shall be contained –

- (a) in Form HKL1;
- (b) in Form HKL2; and
- (c) in Form HKL3.

**FORM HKLI**

**HONG KONG LONG TERM INSURANCE BUSINESS - REVENUE ACCOUNT OF ..... (Name of insurer)  
in respect of class(es)\*..... for the period commencing on ..... and ending on .....**

	HK\$				HK\$		
Amount of Fund(s) <sup>#</sup> as at the Beginning of the Period .....			XX	Gross Claims Payable:			
Gross Premiums Receivable:					Direct	Reinsurance Accepted	Recoverable from Reinsurers
		Reinsurance Accepted	Reinsurance Ceded	On Death	...	...	(...)
	Direct			On Surrender	...	...	(...)
Regular Premiums	...	...	(...)	On Maturity	...	...	(...)
Single Premiums	...	...	(...)	On Other Events	...	...	(...)
Transferred Premiums	...	...	(...)		-----	-----	-----
	...	...	(...)		...	...	(...)
Net Premiums Receivable .....			XX	Net Claims Payable .....			XX
Interest or Income from Long Term Business Assets				Dividends to Policy Holders .....			XX
Attributable to Hong Kong Long Term Insurance Business .....			XX	Commissions Payable .....			XX
Commissions Receivable .....			XX	Other Payments (accounts to be specified) .....			XX
Other Receipts (accounts to be specified) .....			XX	Transfer to Other Long Term Insurance Class(es)* .....			XX
Transfer from Other Long Term Insurance Class(es)* .....			XX	Transfer to Profit and Loss Account .....			XX
Transfer from Profit and Loss Account .....			XX	Amount of Fund(s) <sup>#</sup> as at the End of the Period .....			XX
			<u>XX</u>				<u>XX</u>

We certify that the above information is true and correct.

_____ ( ) Director	_____ ( ) Director	_____ ( ) § Chief Executive/Secretary
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\* The classes referred to correspond to the classes of Long Term Business set out in Part 2 of the First Schedule to the Insurance Companies Ordinance (Cap. 41).

# "Fund" means the long term business fund, or that part of the fund, which is attributable to the Hong Kong long term insurance business carried on by the insurer.

§ Delete as necessary.

FORM HKL2

HONG KONG LONG TERM INSURANCE BUSINESS - VALUATION SUMMARY OF ..... (Name of insurer)  
for the period commencing on ..... and ending on .....

Class	Type of business	1	2	4		5	6	7	8
		Number of contracts	Amount of sums assured or annuities per annum including vested reversionary bonuses	Office premiums	Net premiums	Value of sums assured or annuities per annum including vested reversionary bonuses	Value of yearly net premiums	Amount of net liability	Bases of valuation
			HK\$	HK\$	HK\$	HK\$	HK\$	HK\$	
A	(I) Life assurance other than annuities								
	(a) With participation in profits:								
	Whole life.....								
	Endowment.....								
	Term.....								
	Other types (to be specified).....								
	Total assurances with profits.....								
	(b) Without participation in profits:								
	Whole life.....								
	Endowment.....								
	Term.....								
	Other types (to be specified).....								
Total assurances without profits.....									
Total assurances .....									
(II) Annuities									
(a) With participation in profits.....									
(b) Without participation in profits.....									
Total annuities .....									
Total of Class A									
B	Marriage and birth								

Class	Type of business	1 Number of contracts	2 Amount of sums assured or annuities per annum including vested reversionary bonuses	3 4 Amount of yearly premiums		5 Value of sums assured or annuities per annum including vested reversionary bonuses	6 Value of yearly net premiums	7 Amount of net liability	8 Bases of valuation
				Office premiums	Net premiums				
				HK\$	HK\$				
C	Linked long term:								
	Whole life.....								
	Endowment.....								
	Annuity.....								
	Others.....								
	Total of Class C								
D	Permanent health								
E	Tontines								
F	Capital redemption								
G	Retirement scheme management category I:								
	(i) MPF subfunds								
	(ii) Other subfunds								
	Total of Class G*								
H	Retirement scheme management category II:								
	(i) MPF subfunds								
	(ii) Other subfunds								
	Total of Class H*								
	Total of Classes G & H*								
I	Retirement scheme management category III								
	Other reserves (to be specified)								
	TOTALS								

We certify that the above information is true and correct.

( )

Director

( )

Director

( )

# Chief Executive/Secretary

Notes:

- The classes referred to correspond to the classes of Long Term Business set out in Part 2 of the First Schedule to the Insurance Companies Ordinance (Cap. 41).
- Within each class of long term insurance business, the following are to be shown -
  - direct business and reinsurance accepted,
  - reinsurance ceded; and
  - net retained business.
- The entry under column 8 should either refer to details given as supplementary information or should state the mortality tables/statistical tables and rates of interest employed, as appropriate.
- With regard to business within class A -
  - separate summaries similar in form to the above must be furnished in respect of policies valued by different mortality tables, or at different rates of interest; and
  - contracts the nature of which or the method of valuation of which makes it impossible or inappropriate to give the information required in columns 4, 5 and 6 of any valuation summary are to be shown separately and the reason stated.

\* Eliminate duplicate in total line.

# Delete as necessary.



**FORM HKL3**

**HONG KONG LONG TERM INSURANCE BUSINESS - VALUATION BALANCE SHEET OF ..... (Name of insurer)  
as at .....**

	<b>HK\$</b>		<b>HK\$</b>
Net liability under Hong Kong Long Term Insurance Business		Fund(s)* (as per Balance Sheet).....	
Surplus .....	<u>          </u>	Deficiency .....	<u>          </u>
	\$		\$
	<u>          </u>		<u>          </u>

We certify that the above information is true and correct.

\_\_\_\_\_  
(                    )  
Director

\_\_\_\_\_  
(                    )  
Director

\_\_\_\_\_  
(                    )  
# Chief Executive/Secretary

\* "Fund" means the long term business fund, or that part of the fund, which is attributable to the Hong Kong long term insurance business carried on by the insurer.

# Delete as necessary. " .

Insurance Authority

2003

**Explanatory Note**

The purpose of this Regulation is to amend Part 8 of the Third Schedule to the Insurance Companies Ordinance (Cap. 41) to require insurers authorized by the Insurance Authority to carry on long term insurance business to submit to the Insurance Authority revenue accounts and other information in relation to the long term insurance business carried on by them in Hong Kong.

2. The accounts referred to in paragraph 1 have to be audited and submitted in the form specified for the purpose.