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| Chapter: | 41 | Title: | INSURANCE COMPANIES ORDINANCE | Gazette Number: | |
| Section: | 2 | Heading: | Interpretation | Version Date: | 30/06/1997 |

(1) In this Ordinance, unless the context otherwise requires-

"Advisor" (顧問), in relation to an insurer, means the person appointed, pursuant to section 35(2)(a), to be the Advisor of the insurer; (Added 51 of 1992 s. 2)

"annuities on human life" (人壽年金) does not include superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment, or of the dependants of such persons;

"appointed insurance agent" (獲委任保險代理人) means an insurance agent appointed by and registered with an insurer as an agent; (Added 76 of 1994 s. 3)

"authorized" (獲授權), in relation to an insurer, means authorized under section 8, or deemed under section 61 (1) or (2) to be so authorized, to carry on insurance business, and "authorization" (授權) has the corresponding meaning;

"authorized insurance broker" (獲授權保險經紀) means an insurance broker who is-

- (a) authorized by the Insurance Authority under section 69; or
- (b) a member of a body of insurance brokers which is approved by the Insurance Authority under section 70; (Added 76 of 1994 s. 3)

"body corporate" (法人團體) includes a body incorporated outside Hong Kong;

"chief executive" (行政總裁) has the meaning assigned to it by section 9(2);

"class" (類別), in relation to insurance business, means a class of insurance business which under section 3 is relevant for the purposes of this Ordinance;

"client monies" (客戶款項) means monies an insurance broker has received from or held on behalf of a policy holder or potential policy holder and to which he is not entitled; (Added 76 of 1994 s. 3)

"code of practice" (實務守則) means a code of practice approved by the Insurance Authority under section 67; (Added 76 of 1994 s. 3)

"company" (公司) has the meaning assigned to it by section 2(1) of the Companies Ordinance (Cap 32) and includes a company incorporated outside Hong Kong to which Part XI of that Ordinance applies;

"controller" (控權人) has the meaning assigned to it by section 9, but does not include a Manager; (Amended 51 of 1992 s. 2)

"director" (董事) includes any person occupying the position of director by whatever name called;

"financial year" (財政年度), in relation to a body corporate, has the meaning assigned to it by section 2(1) of the Companies Ordinance (Cap 32);

"former accountant" (前任會計師) means a person who was formerly the accountant of an insurer or a former insurer; (Added 59 of 1993 s. 2)

"former actuary" (前任精算師) means a person who was formerly the actuary of an insurer or a former insurer; (Added 59 of 1993 s. 2)

"former auditor" (前任核數師) means a person who was formerly the auditor of an insurer or a former insurer; (Added 59 of 1993 s. 2)

"former insurer" (前任保險人) means a person who was formerly an insurer; (Added 59 of 1993 s. 2)

"general business" (一般業務) means insurance business not being long term business;

"gross premium income" (毛保費收入) has the meaning assigned to it by section 10(4)(c);

"holding company" (控股公司) has the meaning assigned to it by section 2(7) of the Companies Ordinance (Cap 32);

"insurance agent" (保險代理人) 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; (Added 76 of 1994 s. 3)

"Insurance Authority" (保險業監督) means the Insurance Authority appointed under section 4;

"insurance broker" (保險經紀) means a person who carries on the business of negotiating or arranging contracts of insurance in or from Hong Kong as the agent of the policy holder or potential policy holder or advising on matters related to insurance; (Added 76 of 1994 s. 3)

"insurance intermediary" (保險中介人) means an insurance agent or an insurance broker; (Added 76 of 1994 s. 3)

"insurer" (保險人) means a person carrying on insurance business but does not include Lloyd's;

"Lloyd's" (勞合社) means the society of underwriters known in the United Kingdom as Lloyd's;

"long term business" (長期業務) means any of the classes of insurance business specified in Part 2 of the First Schedule;

"Manager" (經理), in relation to an insurer, means the person appointed, pursuant to section 35(2)(b), to be the Manager of the insurer; (Added 51 of 1992 s. 2)

"policy" (保單)-

(a) in relation to long term business, includes an instrument evidencing a contract to pay an annuity upon human life;

(b) in relation to insurance business of any other class, includes any policy under which there is for the time being an existing liability already accrued or under which a liability may accrue;

"policy holder" (保單持有人) means the person who for the time being is the legal holder of a policy for securing a contract with an insurer, and-

(a) in relation to such long term business as consists in the granting of annuities upon human life, includes an annuitant; and

(b) in relation to insurance business of any other kind, includes a person to whom, under a policy, a benefit is due or a periodic payment is payable;

"premiums receivable" (可收取保費) has the meaning assigned to it by section 10(5);

"prescribed" (訂明) means prescribed by regulations made under section 59; (Amended 35 of 1996 s. 2)

"prescribed person" (訂明人士) means-

(a) an auditor, former auditor, actuary or former actuary-

(i) of an insurer or a former insurer; and

(ii) appointed under section 15 or paragraph 4(1A) of Part 1 of the Third Schedule; or (Amended 26 of 1994 s. 2)

(b) an accountant, former accountant, actuary or former actuary-

(i) of an insurer or a former insurer; and

- (ii) appointed by the insurer or former insurer, as the case may be, in compliance with a requirement under section 35(1); or (Added 59 of 1993 s. 2. Amended 76 of 1994 s. 3)
- (c) an auditor or former auditor of an insurance broker or a former insurance broker appointed under section 72; (Added 76 of 1994 s. 3)

"subordinated loan stock" (後償債權股額), in relation to a company, means a loan which in the event of the winding up of the company is repayable by the company only after all of the liabilities of the company, other than those in respect of share capital, have been paid in full;

"subsidiary" (附屬公司) has the meaning assigned to it by section 2(4), (5) and (6) of the Companies Ordinance (Cap 32);

"working day" (工作日) means any day other than a public holiday or a gale warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap 1). (Added 25 of 1994 s. 2)

(Amended 25 of 1994 s. 2)

(2) References in this Ordinance to an insurer include references to an insurer formed or established in Hong Kong and carrying on insurance business outside Hong Kong, whether or not the insurer is also carrying on insurance business in Hong Kong.

(3) For the purposes of this Ordinance, a person shall be deemed to carry on a class of insurance business in or from Hong Kong if-

- (a) he opens or maintains an office or agency in Hong Kong for the purpose of carrying on that class of insurance business in or from Hong Kong; or
- (b) he holds himself out as carrying on that class of insurance business in or from Hong Kong.

(4) A person shall not be deemed to carry on insurance business in or from Hong Kong by reason only that any person acts as his agent for the purpose of settling claims under contracts of goods in transit insurance entered into wholly outside Hong Kong in respect of goods consigned to Hong Kong.

(5) A person shall not be deemed to be within the meaning of any provision of this Ordinance a person in accordance with whose directions or instructions the directors of a company or other body corporate or any of them are accustomed to act by reason only that the directors of the company or body act on advice given by him in a professional capacity.

(6) An insurer which is a company shall be subject to the Companies Ordinance (Cap 32) as well as to this Ordinance, except that, where there is any conflict or inconsistency between the Companies Ordinance (Cap 32) and this Ordinance, the provisions of this Ordinance shall prevail. (Added 51 of 1992 s. 2)

(7) For the purpose of this Ordinance-

- (a) "captive insurer" (專屬自保保險人) means a company ("relevant company") which carries on general business only and such business-
 - (i) does not relate to any liabilities or risks in respect of which persons are required by any Ordinance to be insured; and
 - (ii) is restricted to the insurance and reinsurance of risks of the companies within the same grouping of companies to which the relevant company belongs;
- (b) the following companies shall be regarded as within the same grouping of companies to which the relevant company belongs-
 - (i) a company ("first company") which belongs to the relevant company's group of companies;
 - (ii) a company ("second company") in respect of which the relevant company or the first company holds, or is entitled to control the exercise of, not less than 20% but not more than 50% of the voting power at any general meeting of the second company;
 - (iii) a company ("third company") where the third company is a subsidiary of the second company;
- (c) "group of companies" (公司集團) has the meaning assigned to it under section 2 of the

Companies Ordinance (Cap 32). (Added 29 of 1997 s. 2)

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| Chapter: | 41 | Title: | INSURANCE COMPANIES ORDINANCE | Gazette Number: | |
| Section: | 6 | Heading: | Restriction on carrying on of insurance business | Version Date: | 30/06/1997 |

PART II

AUTHORIZATION

(1) No person shall carry on any class of insurance business in or from Hong Kong except-

- (a) a company authorized under section 8 to carry on that class of insurance business;
- (b) Lloyd's;
- (c) an association of underwriters approved by the Insurance Authority. (Amended 25 of 1994 s. 3)

(2) Where an application for approval under subsection (1)(c) is made, the applicant shall furnish such information in respect thereof as the Insurance Authority may require. (Amended 25 of 1994 s. 3)

(3) A person who contravenes subsection (1) commits an offence and is liable-

- (a) on conviction upon indictment to a fine of \$2000000 and, in the case of an individual, to imprisonment for 2 years; and
- (b) on summary conviction to a fine of \$200000 and, in the case of an individual, to imprisonment for 6 months,

together with, in either case, a fine of \$2000 for each day on which the offence continues. (Amended 35 of 1996 s. 3)

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| Section: | 7 | Heading: | Application for authorization to carry on insurance business | Version Date: 30/06/1997 |

(1) Any company may make application in writing to the Insurance Authority for authorization to carry on any class of insurance business.

(2) The applicant shall furnish such information in such form as the Insurance Authority may require for the purpose of determining the application together with the particulars specified in the Second Schedule relating to every director or controller of the applicant.

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