

Bills Committee on Insurance Companies (Amendment) Bill 2014

Committee Stage Amendments (“CSAs”)

Members are invited to examine the marked-up version of the relevant parts of the Bill at **Annex A**, with the Administration’s proposed CSAs marked thereto. The reasons for these amendments are set out in **Annex B**.

Financial Services and the Treasury Bureau
May 2015

Part 2**Amendments to Insurance Companies Ordinance (Cap. 41)****3. Long title substituted**

The long title—

Repeal the long title**Substitute**

“To regulate the carrying on of insurance business; to establish the Insurance Authority (as a body corporate) to regulate the insurance industry for protecting policy holders and potential policy holders and for promoting the stable development of the insurance industry; and to provide for related matters.”.

4. Section 1 amended (short title)

Section 1—

Repeal

“Insurance Companies Ordinance”

Substitute

“Insurance Ordinance”.

5. Section 2 amended (interpretation)(1) Section 2(1), definition of *Advisor*—**Repeal**

“an insurer”

Substitute

“an authorized insurer”.

(2) Section 2(1), definition of *authorized*—**Repeal**

“or deemed under section 61(1) or (2) to be so authorized”

Substitute

“or deemed to be so authorized under section 61(1) or (2) of the pre-amended Ordinance having continuing effect by the operation of section 2(7) of Schedule 11”.

(3) Section 2(1)—

Repeal the definition of *client monies***Substitute**

“*client monies* (客戶款項), in relation to a licensed insurance broker company, means the monies of the company specified in section 71(2);”.

(4) Section 2(1), ~~definition of *controller*, before “has the meaning”~~—**Add Repeal the definition of *controller*** [1]**Substitute**

“*controller* (控權人)—, ~~except in Parts X and XI,~~ see section 9;”.

(5) Section 2(1), definition of *former accountant*—**Repeal**

“an insurer”

Substitute

“an authorized insurer”.

(6) Section 2(1), definition of *former actuary*—**Repeal**

- (i) a licensed insurance broker company;
- (ii) a former licensed insurance broker company;
or
- (iii) a person who was formerly an authorized insurance broker within the meaning of the pre-amended Ordinance;”.

(13) Section 2(1)—

- (a) definition of *appointed insurance agent*;
- (b) definition of *authorized insurance broker*;
- (c) definition of *code of practice*;
- (d) definition of *insurance agent*;
- (e) definition of *Insurance Authority*;
- (f) definition of *insurance broker*;
- (g) definition of *insurance intermediary*;
- (h) definition of *working day*—

Repeal the definitions.

(14) Section 2(1)—

Add in alphabetical order

“*Amendment Ordinance* (《修訂條例》) means the Insurance Companies (Amendment) Ordinance 2014 (of 2014);

Authority (保監局) means the body corporate established under section 4AAA(1);

authorized institution (認可機構) has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155);

client account (客戶帳戶), in relation to a licensed insurance broker company, means the account maintained by the

company as referred to in section 71(1)(b) for holding client monies;

former authority (前監督) means the Insurance Authority appointed under section 4 of the pre-amended Ordinance;

key person in control functions (管控要員)—see section 13AE(12); [2]

licensed individual insurance agent (持牌個人保險代理) means an individual who is granted a licence under section 64W;

licensed insurance agency (持牌保險代理機構) means a person who is granted a licence under section 64U;

licensed insurance agent (持牌保險代理人) means—

- (a) a licensed insurance agency;
- (b) a licensed individual insurance agent; or
- (c) a licensed technical representative (agent);

licensed insurance broker (持牌保險經紀) means—

- (a) a licensed insurance broker company; or
- (b) a licensed technical representative (broker);

licensed insurance broker company (持牌保險經紀公司) means a company which is granted a licence under section 64ZA;

licensed insurance intermediary (持牌保險中介人) means—

- (a) a licensed insurance agent; or
- (b) a licensed insurance broker;

licensed technical representative (agent) (持牌業務代表(代理人)) means an individual who is granted a licence under section 64Y;

licensed technical representative (broker) (持牌業務代表(經紀)) means an individual who is granted a licence under section 64ZC;

Mandatory Provident Fund Schemes Authority (積金局) means the Mandatory Provident Fund Schemes Authority established under section 6 of the Mandatory Provident Fund Schemes Ordinance (Cap. 485);

material decision (關鍵決定)—see section 3A(b);

Monetary Authority (金融管理專員) means the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap. 66);

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before the commencement date of section 10 of the Amendment Ordinance;

prescribed fee (訂明費用), in relation to any matter, means the fee payable under this Ordinance in relation to the matter and prescribed by a regulation made under section 126;

public (公眾) means the public of Hong Kong, and includes any class of that public;

regulated activity (受規管活動)—see section 3A(a);

regulated advice (受規管意見)—see section 3A(c);

responsible officer (負責人)—

- (a) in relation to a licensed insurance agency, means an individual who is approved by the Authority as a responsible officer of the agency under section 64ZE; or
- (b) in relation to a licensed insurance broker company, means an individual who is approved by the

Authority as a responsible officer of the company under section 64ZF;

Securities and Futures Commission (證監會) means the Securities and Futures Commission referred to in section 3(1) of the Securities and Futures Ordinance (Cap. 571);

Tribunal (審裁處) means the tribunal established under section 95.”.

(15) After section 2(2)—

Add

“(2A) In this Ordinance—

- (a) a reference to a function includes a power and a duty; and
- (b) a reference to the performance of a function includes the exercise of a power and the discharge of a duty.”.

(16) Section 2(7)(a)—

Repeal

“carries on”

Substitute

“is authorized to carry on”.

6. Section 3 amended (classes of insurance business)

Section 3(1) and (2), English text—

Repeal

“the First Schedule”

Substitute

“Schedule 1”.

[T]

[T]

has been a member, employee, agent, consultant or advisor of the Authority as if after section 53A(1AA)(b), the following were added—

- “(baa) the Authority;
(baab) a person who is or has been a member, employee, agent, consultant or advisor of the Authority;”.

10. Section 4 amended (Insurance Authority)

Section 4—

Repeal subsection (1).

11. Section 4AA added

After section 4—

Add

“4AA. Composition of Authority

- (1) The Authority consists of the following members who are to be appointed by the Chief Executive—
- (a) a chairperson, who is a non-executive director of the Authority;
 - (b) a chief executive officer, who is an executive director of the Authority; **and**
 - (c) not less than 6 other executive or non-executive directors of the Authority.
- (2) The number of non-executive directors must exceed the number of executive directors.
- (3) Of the non-executive directors—
- (a) at least 2 are to be appointed from among persons who, because of their knowledge of and experience

in the insurance industry, appear to the Chief Executive to be suitable for appointment; and

- (b) the others are to be appointed from among persons who, either because of their knowledge in actuarial science, accountancy, law or consumer affairs, or because of their professional or occupational experience, appear to the Chief Executive to be suitable for appointment.
- (4) The Authority may perform its functions despite a vacancy in its membership.
 - (5) If this section ceases to be complied with, the Chief Executive must as soon as practicable make the necessary appointment to ensure that the requirements of this section are complied with.
 - (6) Schedule 1B contains provisions on the constitution and proceedings of, and other matters relating to, the Authority.”.

12. Section 4A amended (functions of Insurance Authority)

- (1) Section 4A(2)—

Repeal paragraph (a)

Substitute

“(a) be responsible for supervising an authorized insurer’s and a licensed insurance intermediary’s compliance with the provisions of this Ordinance;”.

- (2) Section 4A(2)—

Repeal paragraphs (c) and (d)

Substitute

| [T]

(iii) is proof of its contents.

(5) The Authority must, as far as practicable, make the register available to any person for inspection free of charge on the Internet.”.

17. Section 7 amended (application for authorization to carry on insurance business)

Section 7(2), English text—

Repeal

“the Second Schedule”

Substitute

“Schedule 2”.

18. Section 8 amended (authorization)

(1) Section 8(3)(a)(ii)(B)—

Repeal

“regulations made under section 59(1)(aa)”

Substitute

“rules made under section 127(1)(b)”.

(2) Section 8(3)(a)(iii)(A)(II), English text—

Repeal

“the First Schedule”

Substitute

“Schedule 1”.

(3) Section 8(3)(a)(iii)(B)—

Repeal

“regulations made under section 59(1)(aa)”

Substitute

“rules made under section 127(1)(b)”.

(4) Section 8(4)(b)—

Repeal

“regulations made under section 59(1)(a)”

Substitute

“rules made under section 127(1)(a)”.

(5) Section 8(4)(b)—

Repeal

“such regulations”

Substitute

“such rules”.

(6) Section 8(4)(c)—

Repeal

“such regulations”

Substitute

“such rules”.

18A. Section 9 amended (meaning of “controller” (控權人) in section 8(2))

(1) Section 9, heading—

Repeal

“in section 8(2)”.

(2) Section 9—

Repeal subsection (1)

Substitute

[1]

[1]

“(1) Except as otherwise defined in section 13A(12), 13B(1), 64F or 79(1), *controller* (控權人), in relation to an applicable company—

(a) means—

(i) a managing director of the applicable company or of a body corporate of which the applicable company is a subsidiary;

(ii) a chief executive of the applicable company or of a body corporate, being an insurer, of which the applicable company is a subsidiary; or

(iii) a person—

(A) in accordance with whose directions or instructions the directors of the applicable company or of a body corporate of which the applicable company is a subsidiary (or any of them) are accustomed to act; or

(B) who, alone or with an associate or through a nominee, is entitled to exercise, or control the exercise of, 15% or more of the voting power at a general meeting of the applicable company or of a body corporate of which the applicable company is a subsidiary; but

(b) does not include a Manager.”.

(3) Section 9(2)—

Repeal

“applicant” (wherever appearing)

Substitute

“applicable company”.

(4) Section 9(2)—

Repeal

“it”

Substitute

“the applicable company”.

[1]

(5) Section 9(3)—

Repeal

“applicant” (wherever appearing)

Substitute

“applicable company”.

(6) Section 9—

Add

“(5) In this section—

applicable company (適用公司) means—

(a) a company making an application under section 7;

or

(b) an authorized insurer.”.

19. Section 10 amended (meaning of *relevant amount* (有關數額) in section 8(3))

(1) Section 10(2), English text—

Repeal

“the First Schedule”

Substitute

“Schedule 1”.

(2) Section 10(3)(b), English text—

“deemed by virtue of section 61(1)”

Substitute

“deemed under section 61(1) of the pre-amended Ordinance having continuing effect by the operation of section 2(7) of Schedule 11”.

23. Section 13A substituted

Section 13A—

Repeal the section

Substitute

“13A. Approval of certain controllers of authorized insurers

- (1) An authorized insurer must not appoint an individual as a controller of the insurer unless the Authority has approved the appointment under subsection (2).
- (2) The Authority may approve the appointment of the individual as a controller of the insurer—
 - (a) on an application made by the authorized insurer in the manner specified by the Authority; and
 - (b) on payment of a prescribed fee.
- (3) An authorized insurer which applies under subsection (2) must provide the Authority with—
 - (a) the information specified in Schedule 4;
 - (b) a statement signed by the individual proposed to be appointed as a controller of the insurer that the application is made with the individual’s knowledge and consent; and
 - (c) any other information that the Authority reasonably requires to enable it to consider the application.

[3]

- (4) The Authority must not approve the appointment of an individual as a controller of the authorized insurer unless it is satisfied that the individual is a fit and proper person to be so appointed.
- (5) The Authority must give the authorized insurer and the individual a notice in writing of the result of the application made under subsection (2).
- (6) If the application is rejected, the notice must include a statement of the reasons for the rejection.
- (7) Subject to subsection (9), the Authority may, by serving a notice in writing on an authorized insurer and an individual, revoke the approval of the appointment of the individual as a controller of the insurer if it appears to the Authority that the individual is not, or is no longer, a fit and proper person to be so appointed.
- (8) The authorized insurer must, by the date specified in the notice under subsection (7), terminate the appointment of the individual as a controller of the insurer.
- (9) Before serving the notice under subsection (7), the Authority must serve on the authorized insurer and the individual a preliminary written notice stating—
 - (a) that the Authority is considering ~~to serve the~~ service on the insurer of a notice under that subsection because it appears to the Authority that the individual is not, or is no longer, a fit and proper person to be appointed as a controller of the insurer; and
 - (b) that the insurer or the individual may, within 1 month after the date of service of the preliminary notice—

[T]

- (i) make written representations to the Authority; and
- (ii) if the insurer or the individual so requests, make oral representations to a person appointed for the purpose by the Authority.

(10) If representations are made under subsection (9), the Authority must take them into consideration before serving a notice under subsection (7).

(11) An authorized insurer which contravenes subsection (1) or (8) commits an offence and is liable—

[4]

(a) is liable to a fine of \$200,000; and

(b) in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

(12) In this section—

controller (控權人)—

~~—(a) in relation to an authorized insurer which is incorporated in Hong Kong means an individual who is a managing director or chief executive of the insurer under section 9; or~~

~~—(b) in relation to an authorized insurer which is incorporated outside Hong Kong means an individual who is—~~

~~—(i) a managing director of the insurer by virtue of section 9(3)(a); or~~

~~—(ii) a chief executive of the insurer by virtue of section 9(3)(b).”.~~

(a) means—

(i) in relation to an authorized insurer which is incorporated in Hong Kong—an individual

who is a managing director or chief executive of the insurer; or

(ii) in relation to an authorized insurer which is incorporated outside Hong Kong—an individual who is—

(A) a managing director of the insurer in respect of so much of its insurance business as is carried on within Hong Kong; or

(B) a chief executive of the insurer who, alone or jointly with others, is responsible (whether or not under the immediate authority of the directors) for the conduct of the whole of the insurance business carried on by the insurer within Hong Kong, not being an individual who— [1]

(I) is also responsible for the conduct of insurance business carried on by the insurer elsewhere; and

(II) has a subordinate who is responsible for the whole of the insurance business carried on by the insurer within Hong Kong; but

(b) does not include a Manager.”.

24. Section 13AB added

After section 13A—

Add

“13AB. Restrictions on acting as controllers of authorized insurers in contravention of section 13A

- [T]
- (1) An individual appointed as a controller of an authorized insurer in contravention of section 13A(1) must not act or continue to act as such a controller.
 - (2) An individual appointed as a controller of an authorized insurer must not continue to act as such a controller after the date specified in the notice served on the individual under section 13A(7).
 - (3) An individual who contravenes subsection (1) or (2) commits an offence and is liable—
 - (a) ~~is liable~~ to a fine of \$200,000 and to imprisonment for 2 years; and
 - (b) in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.”.

25. Sections 13AC to 13AH added

Before section 13B—

Add**“13AC. Approval of directors of certain authorized insurers**

- (1) An authorized insurer which is incorporated in Hong Kong must not appoint a person as a director of the insurer unless the Authority has approved the appointment under subsection (2).
- (2) The Authority may approve the appointment of the person as a director of the insurer—
 - (a) on an application made by the authorized insurer in the manner specified by the Authority; and
 - (b) on payment of a prescribed fee.

- (3) An authorized insurer which applies under subsection (2) must provide the Authority with—
 - (a) the information specified in Schedule 4;
 - (b) a statement signed by the person proposed to be appointed as a director of the insurer that the application is made with the person’s knowledge and consent; and
 - (c) any other information that the Authority reasonably [3] requires to enable it to consider the application.
- (4) The Authority must not approve the appointment of a person as a director of the authorized insurer unless it is satisfied that the person is a fit and proper person to be so appointed.
- (5) The Authority must give the authorized insurer and the person a notice in writing of the result of the application made under subsection (2).
- (6) If the application is rejected, the notice must include a statement of the reasons for the rejection.
- (7) Subject to subsection (9), the Authority may, by serving a notice in writing on an authorized insurer and a person, revoke the approval of the appointment of the person as a director of the insurer if it appears to the Authority that the person is not, or is no longer, a fit and proper person to be so appointed.
- (8) The authorized insurer must, by the date specified in the notice under subsection (7), terminate the appointment of the person as a director of the insurer.
- (9) Before serving the notice under subsection (7), the Authority must serve on the authorized insurer and the person a preliminary written notice stating—

[T]

- (a) that the Authority is considering ~~to serve the service~~ on the insurer of a notice under that subsection because it appears to the Authority that the person is not, or is no longer, a fit and proper person to be appointed as a director of the insurer; and
- (b) that the insurer or the person may, within 1 month after the date of service of the preliminary notice—
- (i) make written representations to the Authority; and
 - (ii) if the insurer or the person so requests, make oral representations to a person appointed for the purpose by the Authority.
- (10) If representations are made under subsection (9), the Authority must take them into consideration before serving a notice under subsection (7).
- (11) An authorized insurer which contravenes subsection (1) or (8) commits an offence and is liable—

[4]

- (a) is liable to a fine of \$200,000; and
- (b) in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

13AD. Restrictions on acting as directors of authorized insurers in contravention of section 13AC

- (1) A person appointed as a director of an authorized insurer in contravention of section 13AC(1) must not act or continue to act as such a director.
- (2) A person appointed as a director of an authorized insurer must not continue to act as such a director after the date

specified in the notice served on the person under section 13AC(7).

- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable—
 - (a) ~~is liable~~ to a fine of \$200,000 and, in the case of an individual, also to imprisonment for 2 years; and
 - (b) in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

[T]

13AE. Approval of key persons in control functions of certain authorized insurers

- (1) An authorized insurer which is not a captive insurer must not appoint an individual as a key person in control functions of the insurer unless the Authority has approved the appointment under subsection (2).
- (2) The Authority may approve the appointment of the individual as a key person in control functions of the insurer—
 - (a) on an application made by the authorized insurer in the manner specified by the Authority; and
 - (b) on payment of a prescribed fee.
- (3) An authorized insurer which applies under subsection (2) must provide the Authority with—
 - (a) the information specified in Schedule 4;
 - (b) a statement signed by the individual proposed to be appointed as a key person in control functions of the insurer that the application is made with the individual's knowledge and consent; and
 - (c) any other information that the Authority reasonably requires to enable it to consider the application.

[3]

- [T]
- (4) The Authority must not approve the appointment of an individual as a key person in control functions of the authorized insurer unless it is satisfied that the individual is a fit and proper person to be so appointed.
 - (5) The Authority must give the authorized insurer and the individual a notice in writing of the result of the application made under subsection (2).
 - (6) If the application is rejected, the notice must include a statement of the reasons for the rejection.
 - (7) Subject to subsection (9), the Authority may, by serving a notice in writing on an authorized insurer and an individual, revoke the approval of the appointment of the individual as a key person in control functions of the insurer if it appears to the Authority that the individual is not, or is no longer, a fit and proper person to be so appointed.
 - (8) The authorized insurer must, by the date specified in the notice under subsection (7), terminate the appointment of the individual as a key person in control functions of the insurer.
 - (9) Before serving the notice under subsection (7), the Authority must serve on the authorized insurer and the individual a preliminary written notice stating—
 - (a) that the Authority is considering ~~to serve the~~ service on the insurer ~~of~~ a notice under that subsection because it appears to the Authority that the individual is not, or is no longer, a fit and proper person to be appointed as a key person in control functions of the insurer; and
 - (b) that the insurer or the individual may, within 1 month after the date of service of the preliminary notice—

- (i) make written representations to the Authority; and
 - (ii) if the insurer or the individual so requests, make oral representations to a person appointed for the purpose by the Authority.
- (10) If representations are made under subsection (9), the Authority must take them into consideration before serving a notice under subsection (7).
 - (11) An authorized insurer which contravenes subsection (1) or (8) commits an offence and is liable— [T]
 - ~~(a) is liable~~ to a fine of \$200,000; and
 - ~~(b) in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.~~ [4]
 - (12) In this section—

control function (管控職能), in relation to an authorized insurer, means any of the following functions that is likely to enable the individual responsible for the performance of the function to exercise a significant influence on the business carried on by the insurer—

 - ~~(ii) likely to enable the individual responsible for the performance of the function to exercise a significant influence on the business carried on by the insurer;~~
 - ~~(a) risk management function, which is a function to establish the strategies, policies and procedures to manage different types of key risks of the insurer;~~ [5]
 - ~~(b) financial control function, which is a function to oversee all financial matters (including investments, accounting and financial reporting) of the insurer;~~

[5]

- ~~(c) compliance function, which is a function to establish and formulate the standards, policies and procedures to ensure the compliance with legal and regulatory requirements that are applicable to the insurer;~~
- ~~(d) internal audit function, which is a function to establish and implement an audit plan to examine and evaluate the adequacy and effectiveness of the controls to manage risks of the insurer;~~
- ~~(e) actuarial function, which is a function to evaluate and monitor—~~
- ~~(i) the technical provisions, premium and pricing strategies of the insurer;~~
- ~~(ii) the reserving and investment policies and reinsurance arrangements of the insurer; and~~
- ~~(iii) the policies and controls in respect of the insurer's vulnerability to fluctuations in risk exposures and distribution policies;~~
- ~~(af) intermediary management function, which, in relation to for an authorized insurer which that carries on insurance business enters into contracts of insurance through licensed insurance intermediaries or accepts referral of insurance business from licensed insurance intermediaries, is a function,—~~
- ~~(i) to establish and maintain internal control measures for—~~
- ~~(Ai) administering the licensed insurance agencies and licensed individual insurance agents appointed by the insurer in relation to the regulated activities carried on by them;~~

- ~~(Bii) monitoring the compliance with this Ordinance by the licensed insurance agencies and licensed individual insurance agents appointed by the insurer; and~~
- ~~(Ciii) ensuring the compliance by the licensed insurance intermediaries that refer that the arrangements by the licensed insurance intermediaries for the insurance business referred to the insurer with the conduct requirements specified in Part XI and in any code of conduct or guideline published under sections 92 and 93; and comply with—~~
- ~~(A) the requirements of this Ordinance; and~~
- ~~(B) the requirements imposed by the Authority in any code or guideline published under section 93 or 131;~~
- ~~(bg) any other functions specified in a notice under subsection (14);~~

key person in control functions (管控要員)—

- (a) in relation to an authorized insurer which is incorporated in Hong Kong—means an individual ~~who performs~~ responsible for the performance of one or more of the control functions for the insurer; or
- (b) in relation to an authorized insurer which is incorporated outside Hong Kong—means an individual ~~who performs~~ responsible for the performance of one or more of the control functions for the insurer in respect of so much of its insurance business as is carried on within Hong Kong.

[5]

[5]

- (13) For the purposes of the definition of *key person in control functions* in subsection (12), it does not matter whether the individual is solely ~~performs~~responsible, or is jointly ~~performs~~responsible with other key persons in control functions of the authorized insurer, for the performance of the relevant functions.
- (14) Subject to subsection (15), the Financial Secretary may, by notice published in the Gazette, specify a function to be a control function under subsection (12).
- (15) The Financial Secretary must not specify a function to be a control function unless the Financial Secretary is satisfied that the function is likely to enable the individual responsible for the performance of the function to exercise a significant influence on the business carried on by an authorized insurer.

13AF. Authority may impose conditions on granting approval under sections 13A, 13AC and 13AE

- (1) This section applies if the Authority approves the appointment of—
- an individual as a controller of an authorized insurer under section 13A;
 - a person as a director of an authorized insurer under section 13AC; or
 - an individual as a key person in control functions of an authorized insurer under section 13AE.
- (2) The Authority may impose any conditions that it considers appropriate on the approval when granting the approval.

- (3) The Authority may also impose any conditions that it considers appropriate on the approval after the Authority has granted the approval.
- (4) The Authority may amend or revoke any conditions imposed under subsection (2) or (3).
- (5) The power under subsection (2), (3) or (4) is only exercisable by notice in writing served on the authorized insurer and the individual or person.
- (6) A notice under subsection (5) must, in the case of any conditions being imposed or amended, include a statement of reasons for imposing or amending the conditions.
- (7) An imposition, amendment or revocation of any conditions under subsection (2), (3) or (4) takes effect at the time the notice under subsection (5) is served on the authorized insurer and the individual or person or at the time specified in the notice, whichever is the later.

13AG. Procedural requirements for rejecting application, or imposing or amending conditions

- (1) The Authority must not—
- reject an application made under section 13A(2) for the approval of the appointment of an individual as a controller of an authorized insurer;
 - impose a condition under section 13AF(2) or (3) on such an approval; or
 - amend such a condition under section 13AF(4), without giving the insurer and the individual an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.

- (2) The Authority must not—
- (a) reject an application made under section 13AC(2) for the approval of the appointment of a person as a director of an authorized insurer;
 - (b) impose a condition under section 13AF(2) or (3) on such an approval; or
 - (c) amend such a condition under section 13AF(4), without giving the insurer and the person an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.
- (3) The Authority must not—
- (a) reject an application made under section 13AE(2) for the approval of the appointment of an individual as a key person in control functions of an authorized insurer;
 - (b) impose a condition under section 13AF(2) or (3) on such an approval; or
 - (c) amend such a condition under section 13AF(4), without giving the insurer and the individual an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.
- (4) In this section, a reference to an opportunity to make representations is a reference to an opportunity to make written representations or oral representations.

13AH. Offence to provide false information in connection with application for approval

- (1) A person commits an offence if the person, in connection with an application for the approval under section 13A, 13AC or 13AE—
 - (a) makes a statement that is false or misleading in a material particular; and
 - (b) knows that, or is reckless as to whether, the statement is false or misleading in the material particular.
- (2) A person commits an offence if the person, in connection with an application for the approval under section 13A, 13AC or 13AE—
 - (a) omits a material particular from a statement with the result that the statement is rendered false or misleading; and
 - (b) knows that, or is reckless as to whether, the material particular is omitted from the statement.
- (3) A person who commits an offence under subsection (1) or (2) is liable to a fine at level 5 and to imprisonment for 6 months.”.

26. Section 13B amended (approval of persons proposing to become certain controllers of authorized insurer)

(1A) Section 13B(1), definition of *controller*, after “the insurer”—

Add

“, but does not include a Manager”.

[1]

- (1) Section 13B(2)(a), English text—

Repeal

“the Fifth Schedule”

- (4) Section 13C(6)(b)(iv)—

Repeal

everything after “subparagraph (iii)(A)”

Substitute

“but on an application made by that person for a review of the decision of the Authority to so serve the notice of objection, the Tribunal has set aside the decision under section 99,”.

- (5) Section 13C(10)—

Repeal

“an insurer”

Substitute

“an authorized insurer”.

- (6) Section 13C(10), Chinese text, after “，在”—

Add

“該”.

28. Section 13D amended (punishment for attempted evasion of restrictions)

Section 13D(2)—

Repeal

“57”

Substitute

“122”.

29. Section 14 amended (notification of change in particulars, and objection to appointment of new director or controller)

- (1) Section 14, heading—

Repeal**“objection to appointment of new director or controller”:****Substitute****“Authority’s objection to appointment”.**

[T]

- (2) Section 14(2)—

Repeal

“directors or controllers”

Substitute

“directors, controllers or key persons in control functions”.

- (3) Section 14(2)—

Repeal

“shall forthwith”

Substitute

“must, within 1 month after the date on which the change takes place,”.

- (4) Section 14(2), English text—

Repeal

“the Second Schedule”

Substitute

“Schedule 2”.

- (5) Section 14(2A), English text—

Repeal

“the Second Schedule”

Substitute

“Schedule 2”.

- (6) Section 14(2A), after “controllers”—

Add

- “or directors”.
- (7) Section 14(2A)—
Repeal
“a controller” (wherever appearing)
Substitute
“a controller or director”.
- (8) Section 14(2A)—
Repeal
“13A or 13B” (wherever appearing)
Substitute
“13A, 13AC or 13B”.
- (9) Section 14(3)—
Repeal
“director or controller”
Substitute
“director, controller or key person in control functions”.
- (10) Section 14(3)—
Repeal
“he shall forthwith”
Substitute
“the person must, within 1 month after the date on which the person becomes, or ceases to be, a director, controller or key person in control functions of the insurer.”.
- (11) Section 14(4)—
Repeal
“director or controller (other than a controller to whom section 13A or 13B applies)”

Substitute

“controller or director (other than a controller or director to whom section 13A, 13AC or 13B applies)”.

- (12) Section 14(5)(a)(ii)—

Repeal

“public officer”

Substitute

“person”.

- (13) Section 14(5)—

Repeal paragraph (b).

- (14) Section 14—

Repeal subsection (6).

- ~~(15) After section 14(8)—~~

Add

~~“(9) In this section—~~

~~*key person in control functions* (管控要員) has the meaning given by section 13AE(12).”.~~

[2]

30. Section 14A added

Part II, after section 14—

Add**“14A. Determination of fit and proper**

- (1) In determining whether a person is a fit and proper person for the purposes of sections 8, 13A, 13AC, 13AE, 13B, 14 and 15, the Authority must have regard to the following matters—

“An authorized insurer”.

(5) After section 15(3)—

Add

“(3A) ~~If an authorized insurer which carries on long term business is incorporated in Hong Kong, the appointment of an actuary to the insurer is subject to the prior approval of the Authority~~An authorized insurer which is incorporated in Hong Kong and carries on long term business must not appoint a person as an actuary of the insurer unless the Authority has approved the appointment under subsection (3B).

(3B) ~~On an application made in the manner specified by the Authority and on payment of a prescribed fee, the Authority may approve the appointment of a person as an actuary of an authorized insurer under subsection (1)(b) if it appears to the Authority that the person is a fit and proper person to be so appointed.~~The Authority may approve the appointment of the person as an actuary of the authorized insurer—

(a) on an application made by the insurer in the manner specified by the Authority; and

(b) on payment of a prescribed fee.

(3BA) The Authority must not approve the appointment of a person as an actuary of the authorized insurer unless it is satisfied that the person is a fit and proper person to be so appointed.

(3C) The Authority must give the authorized insurer and the person a notice in writing of the result of the application made under subsection (3B).

(3D) If the application is rejected, the notice must include a statement of the reasons for the rejection.

(3E) Subject to subsection (3F), the Authority may, by serving a notice in writing on an authorized insurer and a person, revoke the approval of the appointment of the person as an actuary of the insurer if it appears to the Authority that the person is not, or is no longer, a fit and proper person to be so appointed.

(3EA) The authorized insurer must, by the date specified in the notice under subsection (3E), terminate the appointment of the person as an actuary of the insurer. [6]

(3F) Before serving the notice under subsection (3E), the Authority must serve on the authorized insurer and the person a preliminary written notice stating—

(a) that the Authority is considering ~~to serve the~~ service on the insurer of a notice under that subsection because it appears to the Authority that the person is not, or is no longer, a fit and proper person to be appointed as an actuary of the insurer; and [T]

(b) that the insurer or the person may, within 1 month after the date of service of the preliminary notice, make written representations to the Authority and, if the insurer or the person so requests, oral representations to a person appointed for the purpose by the Authority.

(3G) If representations are made under subsection (3F), the Authority must take them into consideration before serving a notice under subsection (3E).”.

(6) Section 15(5)—

Repeal

“Any insurer which fails to comply with any of the provisions of this section” [6]

Substitute

“An authorized insurer which contravenes subsection (1), (2) or (3)”.

(7) After section 15(5)—

Add

[6] “(6) An authorized insurer which contravenes subsection (3A) or (3EA) commits an offence and is liable—
(a) to a fine of \$200,000; and
(b) in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.”.

32. Sections 15AA, 15AB and 15AC added

After section 15—

Add**“15AA. Authority may impose conditions on granting approval under section 15**

- (1) This section applies if the Authority approves the appointment of a person as an actuary of an authorized insurer under section 15.
- (2) The Authority may impose any conditions that it considers appropriate on the approval when granting the approval.
- (3) The Authority may also impose any conditions that it considers appropriate on the approval after the Authority has granted the approval.
- (4) The Authority may amend or revoke any conditions imposed under subsection (2) or (3).

- (5) The power under subsection (2), (3) or (4) is only exercisable by notice in writing served on the authorized insurer and the person.
- (6) A notice under subsection (5) must, in the case of any conditions being imposed or amended, include a statement of reasons for imposing or amending the conditions.
- (7) An imposition, amendment or revocation of any conditions under subsection (2), (3) or (4) takes effect at the time the notice under subsection (5) is served on the authorized insurer and the person or at the time specified in the notice, whichever is the later.”.

15AB. Procedural requirements for rejecting application under section 15, or imposing or amending conditions under section 15AA

(1) The Authority must not—

(a) reject an application made under section 15(3B) for the approval of the appointment of a person as an actuary of an authorized insurer;

(b) impose a condition under section 15AA(2) or (3) on such an approval; or

(c) amend such a condition under section 15AA(4),
without giving the insurer and the person an opportunity to make representations as to why the application should not be rejected or why the condition should not be imposed or amended.

(2) In this section, a reference to an opportunity to make representations is a reference to an opportunity to make written representations or oral representations.

[6]

15AC. Offence to provide false information in connection with application for approval under section 15

(1) A person commits an offence if the person, in connection with an application for the approval under section 15—

(a) makes a statement that is false or misleading in a material particular; and

(b) knows that, or is reckless as to whether, the statement is false or misleading in the material particular.

[6]

(2) A person commits an offence if the person, in connection with an application for the approval under section 15—

(a) omits a material particular from a statement with the result that the statement is rendered false or misleading; and

(b) knows that, or is reckless as to whether, the material particular is omitted from the statement.

(3) A person who commits an offence under subsection (1) or (2) is liable to a fine at level 5 and to imprisonment for 6 months.”.

33. Section 15A amended (notification in respect of auditors appointed under section 15)

(1) Section 15A(1)—

Repeal

“An insurer”

Substitute

“An authorized insurer”.

(2) Section 15A(1)(a), (b) and (c)(i) and (ii), Chinese text, before “保險人”—

Add

“該”.

(3) Section 15A(1)(c)—

Repeal

“an insurer”

Substitute

“an authorized insurer”.

(4) Section 15A(2), English text—

Repeal

“the Third Schedule” (wherever appearing)

Substitute

“Schedule 3”.

(5) Section 15A(2)—

Repeal

“an insurer”

Substitute

“an authorized insurer”.

(6) Section 15A(2)(c), Chinese text—

Repeal

“保險人”

Substitute

“該保險人的”.

(7) Section 15A(3)—

Repeal

“Any insurer”

Substitute

“An authorized insurer”.

34. Section 15B amended (notification in respect of actuaries appointed under section 15)

(1A) Section 15B, heading, after “notification”—

[7]

Add

“, and Authority’s objection to appointment.”.

(1) Section 15B(1)—

Repeal

“An insurer”

Substitute

“An authorized insurer”.

(2) Section 15B(1)(a) and (b), Chinese text, before “保險人”—

Add

“該”.

(3) Section 15B(2)—

Repeal

“an insurer”

Substitute

“an authorized insurer”.

(4) Section 15B(2)(c), Chinese text, before “保險人” (wherever appearing)—

Add

“該”.

(5) Section 15B(2)(c)(i), English text—

Repeal

“the Third Schedule”

Substitute

“Schedule 3”.

(5A) After section 15B(2)—

Add

“(2A) Subject to subsection (2B), the Authority may, by serving a notice in writing on an authorized insurer and a person, objects to the appointment of the person as an actuary (other than an actuary to whom section 15(3A) applies) of the insurer if it appears to the Authority that the person is not a fit and proper person to be so appointed.

(2B) Before serving the notice under subsection (2A), the Authority must serve on the authorized insurer and the person a preliminary written notice stating—

(a) that the Authority is considering the service on the insurer of a notice under that subsection because it appears to the Authority that the person is not a fit and proper person to be appointed as an actuary of the insurer; and

(b) that the insurer or the person may, within 1 month after the date of service of the preliminary notice, make written representations to the Authority and, if the insurer or the person so requests, oral representations to a person appointed for the purpose by the Authority.

(2C) If representations are made under subsection (2B), the Authority must take them into consideration before serving a notice under subsection (2A).”.

[7]

- (b) after serving a notice under section 13A(7) on the insurer revoking the approval of the appointment of an individual as a controller of the insurer, and despite the notice, the individual continues to act as a controller of the insurer;
- (c) after serving a notice under section 13AC(5) on the insurer rejecting the application for the approval of the appointment of a person as a director of the insurer, and despite the notice, the person is appointed as a director of the insurer;
- (d) after serving a notice under section 13AC(7) on the insurer revoking the approval of the appointment of a person as a director of the insurer, and despite the notice, the person continues to act as a director of the insurer; or
- (e) after serving a notice under section 14(4) on the insurer, and despite the notice, the person continues to act as a controller or director.”.
- (4) After section 37(6)—
- Add**
- “(7) For the purposes of subsection (6), this section does not apply even if—
- (a) the insurer or the individual or person concerned has applied to the Tribunal under section 98 for a review of the decision of the Authority to serve the notice; and
- (b) the Tribunal has not determined the review of the decision.”.

51. Section 38A amended (effect of direction given under section 35(2)(b))

Section 38A(1)(b)—

Repeal

“paragraph (b) of the definition of “Controller” in section 13A(1)”

[1]

Substitute

“paragraph (a)(ii) of the definition of *controller* in section 13A(12)”.

52. Section 38B amended (powers of Manager)

- (1) Section 38B(1)(b), English text—

Repeal

“the Seventh Schedule”

Substitute

“Schedule 7”.

- (2) Section 38B(2)(a)—

Repeal

“paragraph (b) of the definition of “controller” in section 13A(1)”

Substitute

“paragraph (a)(ii) of the definition of *controller* in section 13A(12)”.

[1]

- (3) Section 38B(3)(a)(ii)—

Repeal

“paragraph (b) of the definition of “controller” in section 13A(1)”

Substitute

“paragraph (a)(ii) of the definition of *controller* in section 13A(12)”.

- (4) Section 38B(4)—

Repeal

“13A(2)”

Substitute

“13A(1)”.

52A. Section 38D amended (duration of direction given under section 35(2))(1) Section 38D(1)(b)—**Repeal****[8]** “a decision of the Financial Secretary under subsection (2)”**Substitute**“a determination of the Tribunal in a review of the Authority’s direction”.(2) Section 38D—**Repeal subsection (2).****52B. Section 38E amended (Advisors and Managers)**Section 38E—**[9]** **Repeal subsection (8).****53. Section 40 amended (withdrawal of authorization)**

(1) Section 40(4)—

Repeal

“section 5”

Substitute

“section 5H”.

(2) Section 40(5)—

Repeal

“section 5”

Substitute

“section 5H”.

54. Section 41 amended (offences under Part V)

(1) Section 41(1)—

Repeal paragraph (b).

(2) Section 41(1)(c) and (e)—

Repeal

“an insurer”

Substitute

“an authorized insurer”.

(3) After section 41(1)—

Add

“(1A) A person who, in purported compliance with a requirement imposed under section 34, furnishes information which the person knows to be false in a material particular, or recklessly furnishes information which is false in a material particular, commits an offence and is liable—

(a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.

55. Part VA added

After section 41—

Add

“Part VA**Further Regulatory Powers on Insurers****Division 1—Preliminary****41A. Interpretation**

In this Part—

business record (業務紀錄), in relation to an insurer, means a record or document relating to—

- (a) the business conducted by the insurer; or
- (b) a transaction or activity that was undertaken in the course of, or may affect, the business conducted by the insurer;

inspector (查察員) means a person appointed as an inspector under section 41B(6);

investigator (調查員) means a person directed or appointed by the Authority under section 41D(1) to investigate any matter.

Division 2—Inspection and Investigation without Warrant**41B. Power to conduct inspection**

- (1) An inspector may exercise the powers under subsections (2) and (3) for ascertaining whether an authorized insurer is complying with, has complied with, or is likely to be able to comply with—

- (a) a provision of this Ordinance;
- (b) a notice or requirement given or imposed under a provision of this Ordinance;

- (c) a term or condition of an authorization granted under section 8; or
- (d) any other condition imposed under any provision of this Ordinance.

- (2) At any reasonable time, an inspector—

- (a) may enter any premises used by the authorized insurer in connection with its business;
- (b) may inspect, and may make copies or otherwise record details of, a business record of the insurer; and
- (c) may make inquiries of the insurer or a person specified in subsection (5)—
 - (i) concerning a business record of the insurer; or
 - (ii) concerning a transaction or activity that was undertaken in the course of, or may affect, the business conducted by the insurer.

- (3) In exercising a power under subsection (2)(b) or (c), the inspector may require the authorized insurer, or a person specified in subsection (5)—

- (a) to give the inspector access to a business record of the insurer;
- (b) to produce to the inspector, within the time and at the place specified in the requirement, a business record of the insurer; and
- (c) to answer a question concerning—
 - (i) a business record of the insurer; or
 - (ii) a transaction or activity that was undertaken in the course of, or may affect, the business conducted by the insurer.

- [10]
- (4) The power under subsection (2)(c) or (3) is not exercisable in relation to a person specified in subsection (5) unless the inspector has reasonable cause to believe that the information or record being sought cannot be obtained by exercising the power in relation to the authorized insurer.
 - (5) The person specified for subsections (2)(c) and (3) is a person whom the inspector has reasonable cause to believe has information relating to, or is in possession of, a business record of the authorized insurer.
 - (6) The Authority may in writing appoint a person, or a person belonging to a class of persons, as an inspector for the purposes of this section.
 - (7) The Authority must provide an inspector with a copy of its appointment.
 - (8) When imposing a requirement on a person under subsection (3), an inspector ~~is required to~~ must, if so requested, produce a copy of the appointment to that person for inspection as soon as practicable.

41C. Inspector may require answer, etc. to be verified by statutory declaration

- (1) If a person gives an answer in compliance with a requirement imposed under section 41B(2)(c) or (3), the inspector may, in writing, require the person to verify, within the time specified in the requirement, the answer by a statutory declaration.
- (2) If a person does not give an answer in compliance with a requirement imposed under section 41B(2)(c) or (3) for the reason that the information concerned was not within the person's knowledge or possession, the inspector may, in writing, require the person to verify, within the

time specified in the requirement, by a statutory declaration, that the person did not comply with the requirement for that reason.

- (3) A statutory declaration under subsection (1) or (2) may be made before the inspector and, for that purpose, the inspector is to have full power to administer the statutory declaration.

41D. Power to conduct investigation

- (1) If—
 - (a) the Authority has reasonable cause to believe that a provision of this Ordinance may have been contravened;
 - (b) the Authority has reasonable cause to believe that a person may have been involved in defalcation, fraud, misfeasance or other misconduct in relation to the carrying on of insurance business;
 - (c) the Authority has reasonable cause to believe that a person has carried on, or is carrying on, insurance business in a manner that is not in the interests of policy holders or potential policy holders or the public interest; or
 - (d) the Authority, for considering whether to exercise any power under section 41P, has reason to enquire if—
 - (i) a person is, or was, guilty of misconduct as defined by section 41P; or
 - (ii) a person is, or was, not a fit and proper person as described in section 41P(1)(c),

the Authority may in writing direct one or more of its employees, or, with the consent of the Financial

specified in section 14A), take into account the present or past conduct of the person.

[11]

(5) ~~In~~ Subject to subsection (6), in this section—

misconduct (不當行為) means—

- (a) a contravention of a provision of this Ordinance;
- (b) a contravention of a term or condition of an authorization granted under section 8;
- (c) a contravention of any other condition imposed on an authorized insurer under a provision of this Ordinance; or
- (d) an act or omission relating to the carrying on of a class of insurance business by an authorized insurer which, in the Authority's opinion, is or is likely to be prejudicial to the interests of policy holders or potential policy holders or the public interest,

and *guilty of misconduct* (犯不當行為) is to be construed accordingly.

[11]

(6) This section does not apply to any contravention, act or omission specified in paragraph (a), (b), (c) or (d) of the definition of *misconduct* in subsection (5) that occurred before the commencement date of this Part.

41Q. Procedural requirements in respect of exercise of powers under section 41P

- (1) The Authority must not exercise a power under section 41P without first giving the authorized insurer in respect of whom the power is to be exercised a reasonable opportunity of being heard.
- (2) If the Authority decides to exercise a power under section 41P in respect of an authorized insurer, the

Authority must inform the insurer of its decision to do so by notice in writing.

(3) The notice must include—

- (a) a statement of the reasons for the decision;
- (b) the time when the decision is to take effect;
- (c) in so far as applicable, the duration and terms of the revocation, suspension or prohibition to be imposed under the decision;
- (d) in so far as applicable, the terms in which the authorized insurer is to be reprimanded under the decision; and
- (e) in so far as applicable, the amount of the pecuniary penalty to be imposed under the decision and the period within which it is required to be paid.

(4) In subsection (1), a reference to an opportunity of being heard is a reference to an opportunity to make written representations or oral representations. [12]

41R. Guidelines for exercise of power to impose pecuniary penalty under section 41P

- (1) The Authority must not exercise a power under section 41P to impose a pecuniary penalty unless—
 - (a) it has published, in the Gazette and in any other manner it considers appropriate, guidelines to indicate the way in which it proposes to exercise that power; and
 - (b) in exercising that power, it has had regard to the guidelines so published.
- (2) The guidelines are not subsidiary legislation.

41S. General provisions relating to exercise of disciplinary powers

- (1) At any time when the Authority is contemplating exercising a power under section 41P, it may, if it considers it appropriate to do so in the interests of policy holders or potential policy holders or the public interest, by agreement with the authorized insurer concerned—
- [13] (a) exercise a power that the Authority may exercise in respect of the insurer under ~~this Part~~ section 41P; and
- (b) take an additional action that the Authority considers appropriate in the circumstances of the case.
- (2) If the Authority exercises a power or takes an additional action under subsection (1), it must comply with section 41Q as if that section applied to the power or action, unless the insurer agrees otherwise.
- (3) In reaching a decision under this Division, the Authority may have regard to any information or material in its possession which is relevant to the decision, regardless of how the information or material has come into its possession.

41T. Order for payment of pecuniary penalty

- (1) An authorized insurer ordered to pay a pecuniary penalty under section 41P must pay the penalty to the Authority within 30 days, or a longer period that the Authority specifies by notice under section 41Q(3)(e), after the order has taken effect.
- (2) The Court of First Instance may, on an application of the Authority, register an order to pay a pecuniary penalty made under section 41P in the Court.

- (3) On registration, the order is to be regarded as an order of the Court of First Instance made within the civil jurisdiction of the Court for the payment of money.
- (4) For making an application under subsection (2), the Authority must produce to the Registrar of the High Court a notice in writing requesting that the order be registered, together with the original and a copy of the order.
- (5) A pecuniary penalty paid to or recovered by the Authority under an order made under section 41P must be paid by the Authority into the general revenue.

41U. Effect of suspension under section 41P

- (1) If the authorization of an authorized insurer is suspended under section 41P, the insurer must, during the suspension period—
- (a) continue to be regarded for the purposes of this Ordinance to be authorized, whether in relation to all or any, or a part of all or any, of the class or classes of insurance business for which the authorization of the insurer is suspended; and
- (b) without limiting paragraph (a), continue to be required to comply with the provisions of this Ordinance relating to an authorized insurer as would apply to the insurer were the authorization not so suspended.
- (2) Without limiting the powers that can be exercised by the Authority under section 41P, the Authority may revoke the authorization even though the authorization is suspended under section 41P.

62. Sections 50G and 50H added

Part VII, after section 50F—

Add**“50G. Further regulatory powers**

- (1) The provisions of Part VA, except sections 41P(2)(a), (b) and (c), 41U, 41V and 41W, apply to one or more of the following, as the context requires—
 - (a) Lloyd’s;
 - (b) a member of Lloyd’s who carries on insurance business in Hong Kong;
 - (c) the members of Lloyd’s taken together who carry on insurance business in Hong Kong.
- (2) A reference in those provisions to an insurer or authorized insurer is a reference to one or more of Lloyd’s, the member and the group of members.
- (3) A reference in those provisions to a controller is a reference to the authorized representative appointed under section 50B.”

50H. Part XIII applies to Lloyd’s etc.

- (1) The provisions of Part XIII, except section 120, apply to one or more of the following, as the context requires—
 - (a) Lloyd’s;
 - (b) a member of Lloyd’s who carries on insurance business in Hong Kong;
 - (c) the members of Lloyd’s taken together who carry on insurance business in Hong Kong.

[14]

(2) A reference in those provisions to an insurer or authorized insurer is a reference to one or more of Lloyd’s, the member and the group of members.

(3) A reference in those provisions to a controller is a reference to the authorized representative appointed under section 50B.

(4) Section 120 applies to Lloyd’s and a reference in that section to an authorized insurer is a reference to Lloyd’s.”.

63. Section 51 amended (exempted persons)

- (1) Section 51(f)—

Repeal

“within the meaning of section 2 of the Banking Ordinance (Cap. 155)”.

- (2) Section 51(f), English text—

Repeal

“the First Schedule”

Substitute

“Schedule 1”.

64. Section 53A amended (secrecy)

- (1) Section 53A(1)—

Repeal

“Except in the exercise”

Substitute

“Except in the performance”.

- (2) Section 53A(1)(a)—

Repeal

“an insurer”

Substitute

“an authorized insurer”.

(10A) Section 53A(2)—

Repeal

“13B, 14”

Substitute

“13AC, 13AE, 13B, 14, 15”.

[15]

(11) Section 53A(2)—

Repeal

“, 53E or 61(1)(a)”

Substitute

“or 53E”.

(12) Section 53A(2)—

Repeal

“exercise”

Substitute

“performance”.

(13) Section 53A(3)—

Repeal paragraph (a)

Substitute

“(a) in the form of a summary compiled from similar or related information provided by authorized insurers or licensed insurance intermediaries if the summary is so compiled as to prevent particulars relating to the business of those insurers or intermediaries from being ascertained from the summary;

(ab) for seeking advice from, or giving advice by, a counsel or a solicitor, or any other professional advisor acting or proposing to act in a professional capacity, in connection with a matter arising under this Ordinance;

(ac) for, or otherwise in connection with, an audit required by section 5F;”.

(14) After section 53A(3)(c)—

Add

“(ca) to the Tribunal in connection with any proceedings in the Tribunal;

(cb) by a person in connection with any judicial or other proceedings to which the person is a party;

(cc) in compliance with an order of a court, or in compliance with a law or a requirement made under a law;”.

(15) Section 53A(3)(e)—

Repeal

everything before “, in the opinion”

Substitute

“(e) to any of the persons specified in subsection (3AA) if”.

(16) Section 53A(3)(e)(ii)—

Repeal

“exercise”

Substitute

“perform”.

(17) After section 53A(3)(e)—

Add

“(ea) to the Financial Secretary, the Secretary for Justice, the Commissioner of Police, the Commissioner of the

by the Authority may include information on matters relating to the affairs of a licensed insurance intermediary.”.

66. Section 53C amended (examination by external authorities)

(1) After section 53C(1)—

Add

“(1A) A licensed insurance agency must permit an insurance supervisory authority of a place outside Hong Kong to examine its books, accounts and transactions in Hong Kong if—

- (a) that agency—
 - (i) is incorporated, or has its principal place of business, in that place; or
 - (ii) is incorporated in or outside Hong Kong and is a subsidiary or associate of an insurance agency incorporated, or which has its principal place of business, in that place; and
- (b) that insurance supervisory authority has, subject to subsection (2), the approval of the Authority to carry out such an examination.

(1B) A licensed insurance broker company must permit an insurance supervisory authority of a place outside Hong Kong to examine its books, accounts and transactions in Hong Kong if—

- (a) that company—
 - (i) is incorporated, or has its principal place of business, in that place; or
 - (ii) is incorporated in or outside Hong Kong and is a subsidiary or associate of an insurance broker company incorporated, or which has

its principal place of business, in that place; and

- (b) that insurance supervisory authority has, subject to subsection (2), the approval of the Authority to carry out such an examination.”.

(2) Section 53C(2)—

Repeal

“subsection (1)(b)”

Substitute

“subsections (1)(b), (1A)(b) and (1B)(b)”.

[T]

67. Section 53D amended (communication by prescribed person with Insurance Authority)

Section 53D(2)—

Repeal

“other than an insurer or a former insurer.”

Substitute

“other than—

- (a) an authorized insurer;
- (b) a former insurer;
- (c) a licensed insurance broker company;
- (d) a former licensed insurance broker company; or
- (e) a person who was formerly an authorized insurance broker within the meaning of the pre-amended Ordinance.”.

68. Section 53E amended (prescribed person to send report directly to Insurance Authority in certain cases)

(1) Section 53E, heading, after “**certain cases**”—

“Division 1—Preliminary

64F. Interpretation of Part X

In this Part—

[16]

agency agreement (代理協議) means an agreement entered into between an authorized insurer and a licensed insurance agency or licensed individual insurance agent under which the licensed insurance agency or licensed individual insurance agent is appointed to carry on regulated activities as an agent of the insurer;

business record (業務紀錄), in relation to a licensed insurance intermediary, means a record or document relating to a regulated activity carried on by the intermediary;

controller (控權人)—

- (a) in relation to a sole proprietorship—
 - (i) means an individual who ultimately owns or controls the carrying on of regulated activities by the sole proprietorship; or
 - (ii) if the sole proprietor is acting on behalf of another person, means the other person;
- (b) in relation to a partnership, means an individual who—
 - (i) is entitled to or controls, directly or indirectly, not less than a 15% share of the capital or profits of the partnership;
 - (ii) is, directly or indirectly, entitled to exercise or control the exercise of not less than 15% of the voting rights in the partnership; or

- (iii) exercises ultimate control over the management of the partnership; or
- (c) in relation to a company, means ~~an individual a person~~ who—
 - (i) owns or controls, directly or indirectly, including through a trust or bearer share holding, not less than 15% of the issued share capital of the company;
 - (ii) is, directly or indirectly, entitled to exercise or control the exercise of not less than 15% of the voting rights at general meetings of the company; or
 - (iii) exercises ultimate control over the management of the company;

inspector (查察員) means a person appointed as an inspector under section 64ZZF(6);

investigator (調查員) means a person directed or appointed by the Authority under section 64ZZH(1) to investigate any matter;

licence (牌照)—

- (a) in relation to a licensed insurance agency—means an insurance agency licence granted under section 64U or renewed under section 64ZV;
- (b) in relation to a licensed individual insurance agent—means an individual insurance agent licence granted under section 64W or renewed under section 64ZV;
- (c) in relation to a licensed technical representative (agent)—means a technical representative (agent) licence granted under section 64Y or renewed under section 64ZV;

[17]

64J. Restrictions in relation to personnel of licensed insurance agencies

- [18]
- (1) This section applies to a person who is—
 - (a) a proprietor or a partner of a licensed insurance agency; or
 - (b) a director or an employee of a licensed insurance agency who ~~deals with any matter that relates to~~ manages or controls any matter relating to a regulated activity of the agency.
 - (2) The person must not also be—
 - (a) a proprietor or a partner of another licensed insurance agency;
 - (b) a licensed individual insurance agent;
 - (c) a licensed technical representative (agent) of another licensed insurance agency;
 - (d) a licensed technical representative (broker);
 - (e) a director or an employee of another licensed insurance agency who ~~deals with any matter that~~ relates manages or controls any matter relating to a regulated activity of that other agency; or
 - (f) a director or an employee of a licensed insurance broker company who ~~deals with any matter that~~ relates manages or controls any matter relating to a regulated activity of that company.
 - (3) A person who contravenes subsection (2) commits an offence and is liable to a fine at level 6 and to imprisonment for 6 months.

64K. Restrictions in relation to personnel of licensed insurance broker companies

- (1) This section applies to a person who—
 - (a) is a director or an employee of a licensed insurance broker company; and
 - (b) ~~deals with any matter that relates~~ manages or controls any matter relating to a regulated activity of the company.
- (2) The person must not also be—
 - (a) a proprietor or a partner of a licensed insurance agency;
 - (b) a licensed individual insurance agent; [18]
 - (c) a licensed technical representative (agent); or
 - (d) a director or an employee of a licensed insurance agency who ~~deals with any matter that relates~~ manages or controls any matter relating to a regulated activity of the agency.
- (3) A person who contravenes subsection (2) commits an offence and is liable to a fine at level 6 and to imprisonment for 6 months.

64L. Restrictions in relation to licensed technical representatives (agent)

- (1) A person who is a licensed technical representative (agent) of a licensed insurance agency must not also be a licensed technical representative (agent) of another licensed insurance agency.
- (2) A person who is a licensed technical representative (agent) must not carry on regulated activities in a line of business unless the licensed insurance agency by which

the person is appointed is also licensed to carry on regulated activities in that line of business.

64M. Restrictions in relation to licensed technical representatives (broker)

A person who is a licensed technical representative (broker) must not carry on regulated activities in a line of business unless the licensed insurance broker company by which the person is appointed is also licensed to carry on regulated activities in that line of business.

64N. Contracts of insurance made through persons other than licensed insurance intermediaries, etc.

(1) An authorized insurer must not enter into a contract of insurance through another person in Hong Kong unless—

(a) that person is—

(i) a licensed insurance ~~intermediary~~ agency or a licensed individual insurance agent appointed by the insurer; or

(ii) a licensed insurance broker company; or

(b) that person's duties only involve clerical or administrative duties.

(2) An authorized insurer must not accept a referral of insurance business from another person in Hong Kong unless—

(a) that person is—

(i) a licensed insurance ~~intermediary~~ agency or a licensed individual insurance agent appointed by the insurer; or

(ii) a licensed insurance broker company; or

(b) that person's duties only involve clerical or administrative duties.

(3) If an authorized insurer enters into a contract of insurance in contravention of subsection (1), the contract, at the option of the policy holder—

(a) is enforceable against the insurer by the policy holder despite the contravention; or

(b) is void because of the contravention.

(4) A policy holder who under subsection (3)(b) opts to void a contract of insurance before the expiry of the contract is entitled to recover any consideration paid by the policy holder under the contract.

(5) An authorized insurer which contravenes subsection (1) or (2) commits an offence and is liable—

(a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

Division 3—Licensing

Subdivision 1—Register and Maintenance of Register

64O. Register of licensed insurance intermediaries

(1) The Authority must keep a register of licensed insurance intermediaries, in a form it thinks fit, containing—

(a) the name or names, and the reference number assigned by the Authority, of each licensed insurance intermediary, and if applicable, the name of each of its responsible officers;

[T]

[T]

- (b) the business address of each licensed insurance intermediary;
- (c) the conditions of the licence of each licensed insurance intermediary;
- (d) the conditions of approval of each responsible officer;
- (e) the period for which the licence of each licensed insurance intermediary is valid;
- (f) in relation to each licensed insurance agency—
 - (i) the name of each of the authorized insurers by which the licensed insurance agency is appointed;
 - (ii) the date of appointment; and
 - (iii) the date ~~that-on which~~ the appointment is terminated (if applicable);
- [T] (g) in relation to each licensed individual insurance agent—
 - (i) the name of each of the authorized insurers by which the licensed individual insurance agent is appointed;
 - (ii) the date of appointment; and
 - (iii) the date ~~that-on which~~ the appointment is terminated (if applicable);
- (h) in relation to each licensed technical representative (agent)—
 - (i) the name of the licensed insurance agency by which the licensed technical representative (agent) is appointed;
 - (ii) the date of appointment;

- (iii) the date ~~that-on which~~ the appointment is terminated (if applicable); and
- (iv) information on whether the licensed technical representative (agent) is a responsible officer of the licensed insurance agency;
- (i) in relation to each licensed technical representative [T] (broker)—
 - (i) the name of each of the licensed insurance broker company by which the licensed technical representative (broker) is appointed;
 - (ii) the date of appointment;
 - (iii) the date ~~that-on which~~ the appointment is terminated (if applicable); and
 - (iv) information on whether the licensed technical representative (broker) is a responsible officer of the licensed insurance broker company;
- (j) the line or lines of business which each licensed insurance intermediary may carry on;
- (k) a record of every disciplinary action (except a private reprimand) taken by a specified authority against any licensed insurance intermediary or responsible officer in the last 5 years, and if a suspension is involved, the period of the suspension;
- (l) if a licence is suspended under this Part, a note to that effect;
- (m) if a licensed insurance broker company notifies the Authority of cessation of carrying on regulated activities under section 64T, a note to that effect; and

64P. Duty to notify Authority of change in particulars

- [19]
- (1) This section applies if there is a change in any of the particulars specified in subsection (2) of a licensed insurance intermediary or a responsible officer of a licensed insurance intermediary after the particulars are provided by the licensed insurance intermediary for a licence application.
 - (2) The particulars are—
 - (a) name;
 - (b) business or residential address;
 - (c) telephone ~~and fax~~ numbers;
 - (d) electronic mail address; and
 - (e) any other particulars that are prescribed by rules made under section 127.
 - (3) The licensed insurance intermediary must notify the Authority in writing of any change of particulars within 14 days after the date on which the change takes place.
 - (4) A notification under subsection (3) must be accompanied by a prescribed fee.
 - (5) The Authority must, as soon as practicable after receiving a notification under subsection (3), amend any relevant particulars in the register kept under section 64O.
 - (6) A licensed insurance intermediary who, without reasonable excuse, contravenes subsection (3) commits an offence and is liable to a fine at level 5.

64Q. Duty to notify Authority of appointment

- (1) At least ~~one month-14 days~~ before an authorized insurer appoints a licensed insurance agency to carry on

regulated activities in one or more lines of business as an agent of the insurer, the insurer must notify the Authority in writing of the intended appointment.

- (2) At least ~~one month-14 days~~ before an authorized insurer appoints a licensed individual insurance agent to carry on regulated activities in one or more lines of business as an agent of the insurer, the insurer must notify the Authority in writing of the intended appointment.
- (3) At least ~~one month-14 days~~ before a licensed insurance agency appoints a licensed technical representative (agent) to carry on regulated activities in one or more lines of business as an agent of the agency, the agency must notify the Authority in writing of the intended appointment. [20]
- (4) At least ~~one month-14 days~~ before a licensed insurance broker company appoints a licensed technical representative (broker) to carry on regulated activities in one or more lines of business as an agent of the company, the company must notify the Authority in writing of the intended appointment.
- (5) The notification must be accompanied by—
 - (a) a prescribed fee; and
 - (b) the particulars that are prescribed by rules made under section 127.
- (6) The Authority must, after receiving a notification under subsection (1), (2), (3) or (4), update the register kept under section 64O accordingly unless the Authority is of the view that—
 - (a) in relation to subsection (1), the licensed insurance agency has not complied with, or will be unable to

64Y. Grant of licence—technical representative (agent)

- (1) An individual may apply to the Authority for a technical representative (agent) licence to carry on regulated activities in one or more lines of business, as an agent of any licensed insurance agency.
- (2) On an application made in the manner specified by the Authority and on payment of a prescribed fee, the Authority may grant to the applicant a technical representative (agent) licence to carry on regulated activities in one or more lines of business specified in the licence, as an agent of any licensed insurance agency.
- (3) The Authority must not grant the licence unless it is satisfied that—
 - (a) the applicant is a fit and proper person to carry on regulated activities in the lines of business concerned;
 - (b) the applicant is appointed as an agent by—
 - (i) a licensed insurance agency; or
 - (ii) a person who applies under section 64U for an insurance agency licence; and
 - (c) the applicant is neither the holder of a licence granted under [section 64U](#), 64W or 64ZC nor applying for such a licence.
- (4) The Authority must give the applicant a notice in writing of the result of the application made under subsection (1).
- (5) If the application is rejected, the notice must include a statement of the reasons for the rejection.

64Z. Validity of technical representative (agent) licence

A licence granted under section 64Y is valid for 3 years or, if the Authority considers it appropriate in a particular case, another period determined by the Authority, beginning on the date on which it is granted.

64ZA. Grant of licence—insurance broker company

- (1) A company may apply to the Authority for an insurance broker company licence to carry on—
 - (a) regulated activities specified in section 1(a) of Part 1 of Schedule 1A in one or more lines of business, as an agent of any policy holder or potential policy holder; and
 - (b) regulated activities specified in section 1(b), (c) and (d) of Part 1 of Schedule 1A in one or more lines of business.
- (2) An application made under subsection (1) must be accompanied by either—
 - (a) both of the following—
 - (i) an application made by an individual under section 64ZC for a technical representative (broker) licence;
 - (ii) an application made by the applicant under section 64ZF for the approval of the individual as a responsible officer of the applicant; or
 - (b) an application made by the applicant under section 64ZF for the approval of a licensed technical representative (broker) as a responsible officer of the applicant.

| [T]

- (4) A notice under subsection (3)(a) must also include a statement describing—
- (a) the right of the licensed insurance broker company to make representations; and
 - (b) how and when the licensed insurance broker company may make representations.

64ZP. Licence revoked on death, dissolution, etc. of licensee

A licence is revoked—

- (a) if the licensed insurance intermediary is an individual—on the death of the individual;
- (b) if the licensed insurance intermediary is a partnership—on the dissolution of the partnership; or
- (c) if the licensed insurance intermediary is a company—on the winding up of the company or on the date on which the company is struck off the Companies Register under the Companies Ordinance (Cap. 622).

64ZQ. Licence revoked or suspended on licensed insurance intermediary's request

- (1) The Authority may revoke the licence of a licensed insurance intermediary if the intermediary requests the Authority to do so.
- (2) The Authority may suspend the licence of a licensed insurance intermediary if the intermediary requests the Authority to do so.

64ZR. Effect of suspension under this Subdivision

If the licence of a person is suspended under this Subdivision, the person must, during the suspension period—

- (a) continue to be regarded for the purposes of this Ordinance, but not sections 64G, 64ZE, 64ZF, 64ZN and 64ZO, to be licensed; and
- (b) without limiting paragraph (a), continue to be required to comply with the provisions of this Ordinance relating to a licensed insurance intermediary as would apply to the person were the licence not so suspended.

64ZS. Revocation or suspension of licence does not avoid or affect agreement, etc.

~~A-Subject to section 64N, a~~ revocation or suspension of the licence of a person under this Subdivision does not—

- (a) avoid or affect an agreement, transaction or arrangement entered into or arranged by the person, [21] regardless of whether the agreement, transaction or arrangement was entered into or arranged before or after the revocation or suspension; or
- (b) affect a right, obligation or liability arising under the agreement, transaction or arrangement.

64ZT. Requirement to transfer records on revocation or suspension of licence

- (1) If the licence of a person is revoked or suspended under this Subdivision, the Authority may, by notice in writing, require the person to transfer to a client a copy of the records relating to the client's assets or affairs, held at any time for the client as specified in the notice.

the notice under subsection (2) is served on the licensee or at the time specified in the notice, whichever is the later.

64ZX. Validity of licences for which applications have been made under section 64ZV

- (1) A licence for which an application for a renewal is made under section 64ZV and which expires before the determination of the application by the Authority remains in force—
 - (a) until the licence is renewed; or
 - (b) if the renewal is refused—until the Authority’s decision to refuse to renew the licence takes effect.
- (2) Subsection (1) does not apply if the application for the renewal is withdrawn or the licence is revoked.

64ZY. Validity of licences renewed under section 64ZV

- (1) A renewal granted under section 64ZV takes effect on the day following the expiry of the licence.
- (2) A licence renewed under section 64ZV is valid for 3 years or, if the Authority considers it appropriate in a particular case, another period determined by the Authority.

Subdivision 5—Supplementary Provisions

64ZZ. Applicants to provide information

- (1) A person who applies—
 - (a) for the approval of the variation of a line of business specified in a licence under section 64S;

- (b) for a licence under section 64U, 64W, 64Y, 64ZA or 64ZC;
- (c) for the approval of an individual as a responsible officer under section 64ZE or 64ZF; or
- (d) for a renewal of a licence under section 64ZV, must provide the Authority with information that it reasonably requires to enable it to consider the application. [3]
- (2) In considering the application, the Authority may have regard to any information in its possession (whether provided by the applicant or not).

64ZZA. Determination of fit and proper

- (1) In determining whether a person is a fit and proper person for the purposes of this Division, the Authority must have regard to the following matters—
 - (a) the education or other qualifications or experience of the person;
 - (b) the person’s ability to carry on a regulated activity competently, honestly and fairly;
 - (c) the reputation, character, reliability and integrity of the person;
 - (d) the person’s financial status or solvency;
 - (e) whether any disciplinary action has been taken against the person by—
 - (i) the Monetary Authority;
 - (ii) the Securities and Futures Commission;
 - (iii) the Mandatory Provident Fund Schemes Authority; or

- (a) may enter any business premises of the licensed insurance intermediary;
 - (b) may inspect, and may make copies or otherwise record details of, a business record of the intermediary; and
 - (c) may make inquiries of the intermediary or a person specified in subsection (5)—
 - (i) concerning a business record of the intermediary; or
 - (ii) concerning a transaction or activity that was undertaken in the course of, or may affect, the regulated activity carried on by the intermediary.
- (3) In exercising a power under subsection (2)(b) or (c), the inspector may require the licensed insurance intermediary, or a person specified in subsection (5)—
- (a) to give the inspector access to a business record of the intermediary;
 - (b) to produce to the inspector, within the time and at the place specified in the requirement, a business record of the intermediary; and
 - (c) to answer a question concerning—
 - (i) a business record of the intermediary; or
 - (ii) a transaction or activity that was undertaken in the course of, or may affect, the regulated activity carried on by the intermediary.
- (4) The power under subsection (2)(c) or (3) is not exercisable in relation to a person specified in subsection (5) unless the inspector has reasonable cause to believe that the information or record being sought cannot be

obtained by exercising the power in relation to the licensed insurance intermediary.

- (5) The person specified for subsections (2)(c) and (3) is a person whom the inspector has reasonable cause to believe has information relating to, or is in possession of, a business record of the licensed insurance intermediary.
- (6) The Authority may in writing appoint a person, or a person belonging to a class of persons, as an inspector for the purposes of this section.
- (7) The Authority must provide an inspector with a copy of its appointment.
- (8) When imposing a requirement on a person under subsection (3), an inspector ~~is required to~~ must, if so requested, produce a copy of the appointment to that person for inspection as soon as practicable. [10]
- (9) This section is subject to section 64ZZJ.
- (10) In this section—
 - business premises* (業務處所), in relation to a licensed insurance intermediary, means any non-domestic premises at which— [22]
 - (a) the intermediary carries on business; or
 - (b) the person by whom the intermediary is appointed as an agent carries on business.

64ZZG. Inspector may require answer, etc. to be verified by statutory declaration

- (1) If a person gives an answer in compliance with a requirement imposed under section 64ZZF(2)(c) or (3), the inspector may, in writing, require the person to

64ZZS. Production of information in information systems, etc.

If any information or matter contained in a record or document required to be produced under section 64ZZF or 64ZZH is recorded otherwise than in a legible form, a power to require the production of the record or document includes the power to require the production of a reproduction of the recording of the information or matter or of the relevant part of it—

- (a) if the recording enables the information or matter to be reproduced in a legible form—in a legible form; and
- (b) if the information or matter is recorded in an information system—in a form which enables the information or matter to be reproduced in a legible form.

64ZZT. Inspection of records or documents seized, etc.

(1) If a specified person has taken possession of a record or document under this Division, the specified person must permit a person who would be entitled to inspect the record or document had the specified person not taken possession of it, to inspect it and to make copies or otherwise record details of it at all reasonable times.

(2) The permission is subject to any reasonable conditions the specified person imposes.

(3) In this section—

specified person (指明人士) means—

- (a) an authorized person within the meaning of section 64ZZP; or
- (b) an investigator.

Division 5—Miscellaneous”.**72. Sections 65, 66 and 67 repealed**

Sections 65, 66 and 67—

Repeal the sections.

73. Section 68 amended (insurance agent’s relationship with insurer)

(1) Section 68, heading—

Repeal

“Insurance agent’s relationship with insurer”

Substitute

“Authorized insurer’s relationship with its agent”.

(2) Section 68—

Repeal subsections (1), (2), (3) and (4)

Substitute

“(1) This section applies if—

- (a) an authorized insurer has appointed a person as an agent of the insurer; and
- (b) the person has dealings with another person (*client*) for—
 - (i) the issue of a contract of insurance for ~~that other person~~ the client; or
 - (ii) insurance business relating to the contract.

(2) If the person is appointed by 1 authorized insurer as an agent, the insurer is liable for any act of the person in relation to those dealings, whether or not the act is within the scope of the person’s authority.

(3) If—

[23]

- (a) the person is appointed by more than one authorized insurer as an agent;
- (b) those dealings relate to a particular line of business; and
- (c) the person is appointed by only one of those insurers (*empowering insurer*) to engage in that line of business,

the empowering insurer is liable for any act of the person in relation to those dealings, whether or not the act is within the scope of the person's authority.

(4) If—

- (a) the person is appointed by more than one authorized insurer as an agent to engage in a particular line of business;
- (b) those dealings relate to that line of business; and
- (c) an act of the person in relation to those dealings is within the scope of the person's authority in relation to only one of those insurers (*empowering insurer*),

the empowering insurer is liable for the act of the person in relation to those dealings.

(4A) If—

- (a) the person is appointed by more than one authorized insurer as an agent to engage in a particular line of business;
- (b) those dealings relate to that line of business; and
- (c) an act of the person in relation to those dealings is within the scope of the person's authority in relation to 2 or more of those insurers (*empowering insurers*),

the empowering insurers are jointly and severally liable for the act of the person in relation to those dealings.

(4B) If—

- (a) the person is appointed by more than one authorized insurer as an agent to engage in a particular line of business;
- (b) those dealings relate to that line of business; and
- (c) an act of the person in relation to those dealings is not within the scope of the person's authority in relation to any of those insurers,

all of those insurers are jointly and severally liable for the act of the person in relation to those dealings.

(4BA) Despite subsections (2), (3), (4), (4A) and (4B), an authorized insurer is not liable for the act of the person if—

(a) the act is not within the scope of the person's authority in relation to that insurer;

(b) the person disclosed that fact to the client before the client relied on the act; and

(c) the clarity and prominence of the disclosure was what a person would reasonably require for deciding whether to enter into any dealing referred to in subsection (1)(b).

[23]

(4C) If a contract of insurance or an agency agreement contains a provision that is inconsistent with this section, that provision is void.”.

(3) Section 68(5)—

Repeal

“an insurer”

Substitute

“an authorized insurer”.

- (4) Section 68(5)—

Repeal

“appointed insurance agent”

Substitute

“person”.

- (5) Section 68(6)—

Repeal

“subsection (4)”

Substitute

“this section”.

- (5A) Section 68(6)—

Repeal

“proposed insured”

Substitute

“client”.

- (6) Section 68(6)—

Repeal

[23] “insurance agent”

Substitute

“person”.

- (7) Section 68—

Add

“(7) Subsection (6) does not affect the operation of subsection (4BA).”.

74. Section 68A added

After section 68—

Add

“68A. Validity of agency agreements

~~“(1) If an agency agreement specified in subsection (2) contains a provision purporting to affect, or having the effect of affecting the obligation of a licensed insurance intermediary under section 89(1)(a), that provision is void.”.~~ [16]

~~“(2) The agreement specified for subsection (1) is an agreement entered into between an authorized insurer and a licensed insurance agency or licensed individual insurance agent under which the licensed insurance agency or licensed individual insurance agent is appointed to carry on regulated activities as an agent of the insurer.”.~~

75. Sections 69 and 70 repealed

Sections 69 and 70—

Repeal the sections.

76. Section 71 substituted

Section 71—

Repeal the section

Substitute

“71. Licensed insurance broker company’s client monies

(1) A licensed insurance broker company must—

- (a) hold any of the monies specified in subsection (2) separate from the company’s monies; and

(4) Section 72—

Repeal subsection (2).

(5) Section 72(3)—

Repeal

“An insurance broker shall”

Substitute

“A licensed insurance broker company must”.

(6) Section 72(4)—

Repeal

“the insurance broker shall”

Substitute

“the licensed insurance broker company must”.

(7) After section 72(4)—

Add

“(5) A licensed insurance broker company which contravenes this section commits an offence and is liable to a fine at level 3, and in the case of a continuing offence, to a further fine of \$500 for each day during which the offence continues.”.

78. Section 73 substituted

Section 73—

Repeal the section**Substitute**“**73. Audit of licensed insurance broker company, etc.**

(1) A licensed insurance broker company must ~~in each calendar year and within the time specified by the~~

~~Authority, within 6 months after the end of each financial year,~~ provide the Authority with all of the following— [24]

- (a) a copy of the audited profit and loss account for ~~the last preceding financial that~~ year;
- (b) a copy of the audited income and expenditure account for ~~the last preceding financial that~~ year;
- (c) a copy of the audited balance sheet as at the end of ~~the last preceding financial that~~ year;
- (d) an auditor’s report on the financial statements;
- (e) an auditor’s report stating whether the auditor is of the opinion that the company has continued to comply with rules made under section 127 that set out the requirements—
 - (i) in relation to the capital and net assets of a licensed insurance broker company;
 - (ii) in relation to the professional indemnity insurance taken out by a licensed insurance broker company;
 - (iii) in relation to the keeping of separate client accounts by a licensed insurance broker company; and
 - (iv) in relation to the keeping of proper books and accounts by a licensed insurance broker company;
- (f) any other information that is prescribed by rules made under section 127.

(2) A licensed insurance broker company which contravenes this section commits an offence and is liable to a fine at level 6, and in the case of a continuing offence, to a

Repeal the section**Substitute****“76. Authority may petition for winding up or bankruptcy of licensed insurance intermediary**

- (1) The Authority may present a petition for a licensed insurance intermediary, other than a licensed insurance intermediary which is an authorized institution, to be wound up in accordance with the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) if—
- (a) the intermediary is a company which may be wound up by the Court of First Instance under that Ordinance; and
- (b) the Authority considers that it is in the public interest that the intermediary should be wound up.
- (2) However, the Authority may not present a petition under subsection (1) for a licensed insurance intermediary to be wound up if the intermediary is already being wound up by the Court of First Instance.
- (3) The Authority may present a petition for any of the following persons to be declared bankrupt if the Authority considers that it is in the public interest that the person should be made bankrupt—
- (a) an individual who is a licensed insurance intermediary;
- (b) any of the partners of a partnership which is a licensed insurance intermediary.”.

82. Section 77 repealed (offences)

Section 77—

Repeal the section.**83. Section 78 amended (exemptions)**~~(1) Section 78, heading, after “Exemptions”—~~ [T]**Add****“for authorized insurers, etc.”.**

(1A) Section 78—

Repeal subsection (1)**Substitute**

- “(1) Despite section 64G, ~~neither~~ an authorized insurer ~~nor Lloyd’s~~ is **not** required to be a licensed insurance intermediary in order to—
- (a) carry on any regulated activity; or
- (b) hold out that it is carrying on any regulated activity.”.

~~(1B) Section 78(2)—~~ [25]**Repeal****everything after “insurer”****Substitute****“and does not extend to its agent.”.**

(2) Section 78—

Repeal subsection (3)**Substitute**

- “(3) If a person holds out in Hong Kong—
- (a) to carry on regulated activities specified in section 1(a) of Part 1 of Schedule 1A as an agent of a policy holder or potential policy holder for contracts of reinsurance only; or

(b) to carry on regulated activities specified in section 1(b), (c) and (d) of Part 1 of Schedule 1A for contracts of reinsurance only,

the person is not required to be a licensed insurance broker.

(3A) Subsection (3) does not apply to any of the following—

- (a) a body corporate incorporated in Hong Kong;
- (b) a body corporate incorporated elsewhere which has a place of business in Hong Kong or is represented in Hong Kong by an agent;
- (c) any other person or a partnership having a place of business in Hong Kong.”.

(3) Section 78—

Repeal subsections (4) and (5).

83A. Section 78A added

After section 78—

Add

“78A. Power of Authority to grant exemptions

(1) A person may apply to the Authority for an exemption from any provision of this Part.

[26] (2) An application for exemption must be accompanied by—

- (a) a prescribed fee; and
- (b) any information and documents that the Authority reasonably requires to enable it to consider the application.

(3) The Authority may, on receipt of an application for exemption—

- (a) approve the application and grant the exemption; or
- (b) reject the application.

(4) The Authority must give the person a notice in writing of the result of the application.

(5) In approving an application for exemption, the Authority—

(a) may limit the validity of the exemption to a specified period; and

(b) may impose any conditions that the Authority considers appropriate.

[26]

(6) The Authority may at any time by notice in writing—

(a) revoke an exemption; or

(b) revoke, vary, or add to, any condition subject to which an exemption is granted.

(7) If a condition imposed under this section in relation to an exemption is contravened—

(a) the exemption ceases to have effect; and

(b) this Part applies to the person to whom the exemption was granted as if the exemption had not been granted.”.

84. Parts XI to XIV added

Before First Schedule—

Add

“Part XI**Disciplinary Actions and Conduct Requirements
for Licensed Insurance Intermediaries and
Certain Officers****Division 1—Preliminary****79. Interpretation**

(1) In this Part—

[1]

controller (控權人) has the meaning given by section 64F;

misconduct (不當行為) means—

- (a) a contravention of a provision of this Ordinance;
- (b) a contravention of a term or condition of a licence granted under this Ordinance;
- (c) a contravention of any other condition imposed under a provision of this Ordinance; or
- (d) an act or omission relating to the carrying on of any regulated activity which, in the Authority’s opinion, is or is likely to be prejudicial to the interests of policy holders or potential policy holders or the public interest,

and **guilty of misconduct** (犯不當行為) is to be construed accordingly;

regulated person (受規管人士) means—

- (a) a licensed insurance intermediary;
- (b) a responsible officer of a licensed insurance agency;

- (c) a responsible officer of a licensed insurance broker company;
- (d) a person concerned in the management of the regulated activities carried on by a licensed insurance agency; or
- (e) a person concerned in the management of the regulated activities carried on by a licensed insurance broker company.

(2) For the purposes of paragraph (d) of the definition of **misconduct** in subsection (1), the Authority must not form an opinion that an act or omission is or is likely to be prejudicial to the interests of policy holders or potential policy holders or the public interest, unless it has had regard to those provisions set out in any code of conduct published under section 93 or any code or guideline published under section 131, that are in force at the time of the occurrence of, and applicable in relation to, the act or omission.

(3) If—

- (a) a licensed insurance agency is, or was at any time, guilty of misconduct; or
- (b) a former licensed insurance agency was at any time guilty of misconduct,

as a result of a conduct occurring with the consent or connivance of, or attributable to neglect on the part of, a person specified in subsection (4), the conduct is also to be regarded as misconduct on the part of the person, and **guilty of misconduct** (犯不當行為) is to be construed accordingly.

(4) The person specified for subsection (3) is—

- (i) is, or was, a regulated person; and
- (ii) is, or was, appointed as an agent by an authorized institution,

in relation to any regulated activity carried on by the institution.

[12] (5) In subsection (1), a reference to an opportunity of being heard is a reference to an opportunity to make written representations or oral representations.

82. Guidelines for exercise of power to impose pecuniary penalty under section 80

- (1) The Authority must not exercise a power under section 80 to impose a pecuniary penalty unless—
 - (a) it has published, in the Gazette and in any other manner it considers appropriate, guidelines to indicate the way in which it proposes to exercise that power; and
 - (b) in exercising that power, it has had regard to the guidelines so published.
- (2) The guidelines are not subsidiary legislation.
- (3) The Authority must consult the Monetary Authority before publishing any guideline under subsection (1).

83. General provisions relating to exercise of disciplinary powers

- (1) At any time when the Authority is contemplating exercising a power under section 80, it may, if it considers it appropriate to do so in the interests of policy holders or potential policy holders or the public interest, by agreement with the person concerned—

- (a) exercise a power that the Authority may exercise in respect of the person under ~~this Part~~ section 80; and [27]
 - (b) take an additional action that the Authority considers appropriate in the circumstances of the case.
- (2) If the Authority exercises a power or takes an additional action in respect of a person under subsection (1), it must comply with section 81 as if that section applied to the power or action, unless the person agrees otherwise.
 - (3) In reaching a decision under this Part, the Authority may have regard to any information or material in its possession which is relevant to the decision, regardless of how the information or material has come into its possession.
 - (4) The Authority must consult the Monetary Authority before exercising a power under subsection (1) in respect of—
 - (a) an authorized institution;
 - (b) a person who—
 - (i) is, or was, a regulated person; and
 - (ii) is, or was, employed by an authorized institution; or
 - (c) a person who—
 - (i) is, or was, a regulated person; and
 - (ii) is, or was, appointed as an agent by an authorized institution,
- in relation to any regulated activity carried on by the institution.

84. Order for payment of pecuniary penalty

- (1) A person ordered to pay a pecuniary penalty under section 80 must pay the penalty to the Authority within 30 days, or a longer period that the Authority specifies by notice under section 81(3)(e), after the order has taken effect.
- (2) The Court of First Instance may, on an application of the Authority, register an order to pay a pecuniary penalty made under section 80 in the Court.
- (3) On registration, the order is to be regarded as an order of the Court of First Instance made within the civil jurisdiction of the Court for the payment of money.
- (4) For making an application under subsection (2), the Authority must produce to the Registrar of the High Court a notice in writing requesting that the order be registered, together with the original and a copy of the order.
- (5) A pecuniary penalty paid to or recovered by the Authority under an order made under section 80 must be paid by the Authority into the general revenue.

Division 3—Consequences of Revocation or Suspension under Division 2

85. Effect of suspension under section 80

- (1) If a licence or approval of a person is suspended under section 80, the person must, during the suspension period—
 - (a) continue to be regarded for the purposes of this Ordinance, but not sections 64G, 64ZE, 64ZF, 64ZN and 64ZO, to be licensed; and

- (b) without limiting paragraph (a), continue to be required to comply with the provisions of this Ordinance relating to a licensed insurance intermediary or responsible officer as would apply to the person were the licence or approval not so suspended.
- (2) Without limiting the powers that can be exercised by the Authority under section 80, the Authority may—
 - (a) revoke the licence of a person under this Part even though the licence is suspended under section 80; or
 - (b) revoke the approval of a person under this Part even though the approval is suspended under section 80.

86. Revocation or suspension of licence does not avoid or affect agreement, etc.

~~A~~ Subject to section 64N, a revocation or suspension of the licence of a person under section 80 does not—

- (a) avoid or affect an agreement, transaction or arrangement entered into or arranged by the person, [21] regardless of whether the agreement, transaction or arrangement was entered into or arranged before or after the revocation or suspension; or
- (b) affect a right, obligation or liability arising under the agreement, transaction or arrangement.

87. Requirement to transfer records on revocation or suspension of licence

- (1) If the licence of a person is revoked or suspended under section 80, the Authority may, by notice in writing, require the person to transfer to a client a copy of the

records relating to the client's assets or affairs, held at any time for the client as specified in the notice.

- (2) A person who, without reasonable excuse, fails to comply with a requirement imposed on the person under subsection (1) commits an offence and is liable to a fine of \$200,000 and to imprisonment for 2 years.

88. Permission to carry on business operations on revocation or suspension of licence

- (1) If the licence of a person is revoked under section 80, the Authority may, by notice in writing, permit the person, subject to the conditions specified in the notice, to carry on business operations for closing down the business connected with the revocation.
- (2) If the licence of a person is suspended under section 80, the Authority may, by notice in writing, permit the person, subject to the conditions specified in the notice, to carry on only essential business operations for the protection of the interests of the policy holders concerned during the period of suspension.
- (3) If the Authority has granted a permission to a person under subsection (1) or (2), the person must not, because of its carrying on business operations in compliance with the permission, be regarded as having contravened section 64G or 118.
- (4) A permission under subsection (1) or (2), and the imposition of conditions under any of those subsections, take effect at the time of the service of the notice or at the time specified in the notice, whichever is the later.

Division 4—Conduct Requirements, etc.

89. Conduct requirements for licensed insurance intermediaries

(1) When carrying on a regulated activity, a licensed insurance intermediary—

- (a) must act honestly, fairly, in the best interests of the policy holder concerned or the potential policy holder concerned, and with integrity;
- (b) must exercise a level of care, skill and diligence that may reasonably be expected of a prudent person who is carrying on the regulated activity;
- (c) may advise only on matters for which the intermediary is competent to advise;
- (d) must have regard to the particular circumstances of the policy holder or the potential policy holder that are necessary for ensuring that the regulated activity is appropriate to the policy holder or the potential policy holder;
- (e) must make the disclosure of information to the policy holder or the potential policy holder that is necessary for the policy holder or the potential policy holder to be sufficiently informed for the purpose of making any material decision;
- (f) must use its best endeavours to avoid a conflict between the interests of the intermediary and the interests of the policy holder or the potential policy holder;
- (g) must disclose any conflict mentioned in paragraph (f) to the policy holder or the potential policy holder;

[T]

- (h) must ensure that the ~~policy holder's~~ assets of the policy holder or the potential policy holder are promptly and properly accounted for; and
- (i) must comply with other requirements that are prescribed by rules made under sections 92 and 127.

[28]

(2) A failure on the part of a licensed insurance intermediary to comply with any requirement specified in subsection (1) does not by itself render the intermediary liable to any judicial proceedings.

(3) Without limiting subsection (2), a failure on the part of a licensed insurance agency or a licensed individual insurance agent to comply with any requirement specified in subsection (1) does not by itself render the authorized insurer which appoints the agency or agent liable to any judicial proceedings.

90. Conduct requirements for licensed insurance agencies and their responsible officers

- (1) A licensed insurance agency—
 - (a) must establish and maintain proper controls and procedures for securing compliance with the conduct requirements set out in section 89 by the agency and the licensed technical representatives (agent) appointed by the agency;
 - (b) must use its best endeavours to secure observance with the controls and procedures established under paragraph (a) by the licensed technical representatives (agent) appointed by the agency;
 - (c) must ensure that its responsible officer has sufficient authority within the agency for carrying

out the responsibilities set out in subsection (2); and

- (d) must provide its responsible officer with sufficient resources and support for carrying out the responsibilities set out in subsection (2).
- (2) A responsible officer of a licensed insurance agency must use the officer's best endeavours to ensure that the agency—
 - (a) has established and maintains proper controls and procedures for securing compliance with the conduct requirements set out in section 89 by the agency and the licensed technical representatives (agent) appointed by the agency; and
 - (b) uses its best endeavours to secure observance with the controls and procedures established under paragraph (a) by the licensed technical representatives (agent) appointed by the agency.

91. Conduct requirements for licensed insurance broker companies and their responsible officers

- (1) A licensed insurance broker company—
 - (a) must establish and maintain proper controls and procedures for securing compliance with the conduct requirements set out in section 89 by the company and the licensed technical representatives (broker) appointed by the company;
 - (b) must use its best endeavours to secure observance with the controls and procedures established under paragraph (a) by the licensed technical representatives (broker) appointed by the company;

[29]

- (i) prohibit the use by a licensed insurance intermediary of information relating to the affairs of its clients except in specified circumstances and under specified conditions;
- (j) require a licensed insurance intermediary to take specified steps in cases of conflict of interest between the intermediary and its client;
- (k) ~~prohibit the receipt by~~ specify the circumstances and conditions under which a licensed insurance intermediary ~~of~~ may receive any property or services from another licensed insurance intermediary in consideration of directing business to that other licensed insurance intermediary; ~~except in specified circumstances and under specified conditions~~; and
- (l) provide for any other matter in relation to the practices and standards relating to conduct in carrying on regulated activities by a licensed insurance intermediary.

93. Codes of conduct for licensed insurance intermediaries

- (1) The Authority may publish, in the Gazette and in any other manner it considers appropriate, codes of conduct for giving guidance relating to the practices and standards with which licensed insurance intermediaries are ordinarily expected to comply in carrying on regulated activities.
- (2) Subsection (1) applies without limiting the powers of the Authority to make rules under section 92.
- (3) A code of conduct may refer to obligations to observe—
 - (a) any other codes or requirements issued or imposed otherwise than by the Authority;

- (b) continuing obligations, including an obligation to provide or undergo continuous training; and
- (c) practices and standards concerning any of the matters described in section 92(2).
- (4) The Authority may from time to time amend the whole or any part of any code of conduct published.
- (5) A failure on the part of a licensed insurance intermediary to comply with a code of conduct does not by itself render the intermediary liable to any judicial or other proceedings.
- (6) However, the failure may be taken into account in considering, for a provision of this Ordinance, whether the intermediary is a fit and proper person to remain licensed.
- (7) In any proceedings under this Ordinance before a court—
 - (a) a code of conduct is admissible in evidence; and
 - (b) if a provision in the code appears to the court to be relevant to a question arising in the proceedings, the court must, in determining the question, take into account any compliance or non-compliance of the provision.
- (8) A code of conduct published under this section—
 - (a) may be of general or special application and may be made so as to apply only in specified circumstances; and
 - (b) may make different provisions for different circumstances and provide for different cases or classes of cases.

- (9) A code of conduct published under this section is not subsidiary legislation.

Part XII

Insurance Appeals Tribunal

94. Interpretation

In this Part—

affected person (當事人)—

- (a) for a specified decision set out in Part 1 of Schedule 9—means—
- (i) a person who is aggrieved by the decision; or
 - (ii) a person in respect of whom the decision is made; or
- (b) for a specified decision set out in Part 2 of Schedule 9—means a person in respect of whom the decision is made;

parties (各方), in relation to a review, means—

- (a) the Authority; and
(b) the person making the application for the review;

review (覆核) means a review of a specified decision by the Tribunal under section 99;

specified decision (指明決定) means a decision specified in column 2 of Part 1 or 2 of Schedule 9 that is made under, or referred to in, the provision of this Ordinance specified in column 3 of that Schedule opposite that decision.

[30]

95. Establishment of Tribunal

- (1) A tribunal is established with the name of “Insurance Appeals Tribunal” in English and “保險事務上訴審裁處” in Chinese.
- (2) The Tribunal has jurisdiction to, in accordance with this Part and Schedule 10—
 - (a) review specified decisions; and
 - (b) hear and determine a question or issue arising out of or in connection with a review.
- (3) If the Chief Executive considers it appropriate to do so, the Chief Executive may establish additional tribunals for any reviews.
- (4) The provisions of this Ordinance apply, with necessary modifications, to the additional tribunals as they apply to the Tribunal.

96. Composition of Tribunal

- (1) Except as otherwise provided in Schedule 10, the Tribunal—
 - (a) consists of a chairperson and 2 other members; and
 - (b) is to be presided over by the chairperson who is to sit with the 2 other members.
- (2) A member of the Tribunal (including the chairperson) may be paid, as a fee for his or her service, the amount that the Financial Secretary considers appropriate.
- (3) The amount payable under this section is a charge on the general revenue.

97. Schedule 10 has effect in relation to Tribunal

Schedule 10 has effect—

100. Powers of Tribunal

- (1) Subject to Schedule 10, the Tribunal may, for the purpose of a review, on its own initiative or on the application of a party to the review—
- (a) receive and consider any material by way of oral evidence, written statements or documents, whether or not the material would be admissible in a court of law;
 - (b) determine the manner in which any material mentioned in paragraph (a) is received;
 - (c) by notice in writing signed by the chairperson of the Tribunal, require a person—
 - (i) to attend before it at any sitting and to give evidence; and
 - (ii) to produce any article, record or document in the person's possession or control relating to the subject matter of the review;
 - (d) administer oaths;
 - (e) examine or cause to be examined on oath or otherwise a person attending before it and require the person to answer truthfully any question which the Tribunal considers appropriate for the purpose of the review;
 - (f) order a witness to provide evidence for the purpose of the review by affidavit;
 - (g) order a person not to publish or otherwise disclose any material the Tribunal receives;
 - (h) prohibit the publication or disclosure of any material the Tribunal receives at any sitting, or any part of a sitting, that is held in private;

- (i) stay any of the proceedings in the review on any grounds and on any terms and conditions that it considers appropriate having regard to the interests of justice;
- (j) determine the procedure to be followed in the review; and
- (k) exercise other powers or make other orders that may be necessary for or ancillary to the conduct of the review or the carrying out of its functions.

(1A) The Tribunal may, with the consent of the parties to a review, determine the review on the basis of written submissions only.

[31]

- (2) A person commits an offence if the person, without reasonable excuse—
 - (a) fails to comply with an order, notice, prohibition or requirement of the Tribunal made, given or imposed under subsection (1);
 - (b) disrupts any sitting of the Tribunal or otherwise misbehaves during any sitting of the Tribunal;
 - (c) having been required by the Tribunal under subsection (1) to attend before the Tribunal, leaves the place where the person's attendance is so required without the permission of the Tribunal;
 - (d) hinders or deters any person from attending before the Tribunal, giving evidence or producing any article, record or document, for the purpose of a review;
 - (e) threatens, insults or causes any loss to be suffered by any person who has attended before the Tribunal, on account of that attendance; or

- (2) Subsection (1) does not apply to—
- (a) an auditor appointed under section 5E or 72; and
 - (b) an auditor or actuary appointed under section 15.

Division 2—Other Offences and Supplementary Provisions on Offences

Subdivision 1—Other Offences

117. Misleading statements, etc. and false information

- (1) A person commits an offence if the person induces or attempts to induce another person to enter into, or offer to enter into, a contract of insurance—
 - (a) by a statement, promise or representation which the person knows to be false, misleading or deceptive;
 - (b) by a dishonest concealment of material facts; or
 - (c) by the reckless making (dishonest or otherwise) of a statement, promise or representation which is false, misleading or deceptive.
- (2) A person commits an offence if the person—
 - (a) causes or permits to be included in a document specified in subsection (3) a statement which the person knows to be false in a material particular; or
 - (b) recklessly causes or permits to be included in a document specified in subsection (3) a statement which is false in a material particular.
- (3) The document specified for subsection (2) is—
 - (a) a notice or statement or certificate served or furnished or sent out under a provision of this Ordinance; or

- (b) a document or copy of a document deposited or submitted under a provision of this Ordinance.
- (4) A person who commits an offence under subsection (1) or (2) is liable—
 - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

118. Restriction on use of certain terms and representations associated with insurance business

- (1) Except as provided for in section 121, a person must not, without the written consent of the Authority given generally or in a particular case or class of cases, use any of the following in the description or name under which the person is carrying on business in or from Hong Kong—
 - (a) the word “insurance” or “assurance”, or a derivative of the word in English, or a translation of the word or derivative in any language;
 - (b) the Chinese expression “保險”, or the character “保” followed immediately by the character “險”;
 - (c) the letters “i”, “n”, “s”, “u”, “r”, “a”, “n”, “c” and “e” in that order;
 - (d) the letters “a”, “s”, “s”, “u”, “r”, “a”, “n”, “c” and “e” in that order.
- (2) Subsection (1) does not apply to any of the following—
 - (a) an authorized insurer;
 - (b) an approved association of underwriters;

~~(e) Lloyd’s;~~

[32]

[33]

- (d) a licensed insurance intermediary;
 - (da) a person to whom section 78(3) applies;
 - (e) an association that comprises mainly licensed insurance intermediaries or their employees, and that is formed for the protection or promotion of their mutual interests;
 - (f) an association of insurers or their employees that is formed for the protection or promotion of their mutual interests.
- (3) A person who is not an authorized insurer must not, without the written consent of the Authority given generally or in a particular case or class of cases, make a representation in a bill head, letter paper, notice or advertisement, or in any other manner, that the person—
- (a) is an authorized insurer; or
 - (b) is carrying on insurance business in or from Hong Kong.
- (4) A person who contravenes subsection (1) or (3) commits an offence and is liable to a fine of \$200,000 and, in the case of an individual, also to imprisonment for 2 years.
- (5) In subsection (1)—

description (描述) includes a statement that may be construed to mean that a person (however described) is a subsidiary, the holding company, or a subsidiary of the holding company, of an authorized insurer, a licensed insurance agent-agency or a licensed insurance broker company.

[T]

119. Person not to disclose information obtained in the course of inspection, investigation or disciplinary action

- (1) This section applies to—

- (a) a person on whom a requirement under section 41B, 41C, 41D or 41E has been imposed by an inspector or investigator;
 - (b) a person on whom a requirement under section 64ZZF, 64ZZG, 64ZZH or 64ZZI has been imposed by an inspector or investigator; or
 - (c) a person who has been given a notice under section 41Q(2) or 81(2).
- (2) The person specified in subsection (1)(a) or (b) must not disclose any information obtained in the course of the requirement being imposed, or in the course of a compliance or purported compliance with the requirement, to any other person unless—
- (a) the Authority consents to the disclosure; or
 - (b) any of the conditions specified in subsection (4) is satisfied.
- (3) The person specified in subsection (1)(c) must not disclose any information obtained from the notice, or from any communication with the Authority in relation to the subject matter of the notice, unless—
- (a) the Authority consents to the disclosure; or
 - (b) any of the conditions specified in subsection (4) is satisfied.
- (4) The conditions specified for subsections (2)(b) and (3)(b) are—
- (a) the information has already been made available to the public because of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by section 53A;

- (ii) holding himself or herself out as so giving regulated advice;
- (c) prohibit a certified public accountant from—
 - (i) giving regulated advice wholly incidental to his or her practice as a certified public accountant in a practice unit within the meaning of the Professional Accountants Ordinance (Cap. 50); or
 - (ii) holding himself or herself out as so giving regulated advice;
- (d) prohibit a trust company registered under Part VIII of the Trustee Ordinance (Cap. 29) from—
 - (i) giving regulated advice wholly incidental to the discharge of its duty as such a trust company; or
 - (ii) holding itself out as so giving regulated advice;
- (e) prohibit an actuary from—
 - (i) giving regulated advice wholly incidental to his or her practice as an actuary; or
 - (ii) holding himself or herself out as so giving regulated advice;
- (f) prohibit a person from giving regulated advice through—
 - (i) a newspaper, magazine, book or other publication that is made generally available to the public (excluding one that is made available on subscription only);

- (ii) a television broadcast or radio broadcast for reception by the public, whether on subscription or otherwise; or
- (iii) electronic communication to the public;
- (g) prohibit a person from—
 - (i) giving regulated advice in the course of—
 - (A) carrying on the business of loss assessment on behalf of an authorized insurer, policy holder or insurance claimant; or
 - (B) carrying on the business of settling claims on behalf of an authorized insurer; or
 - (ii) holding himself or herself out as so giving regulated advice; or
- (h) prohibit a company from—
 - (i) giving regulated advice to a specified company; or
 - (ii) holding itself out as so giving regulated advice.
- (2) Section 64G or 118 does not prohibit a person acting on behalf of an authorized insurer or a licensed insurance intermediary from carrying on a regulated activity if carrying on that activity only involves the discharge of clerical or administrative duties for the insurer or the intermediary.

(2A) Section 64G or 118 does not prohibit an employee of any of the following authorized insurers from carrying on a regulated activity in the course of employment— [34]

[34]

(a) an authorized insurer which is authorized to carry on in or from Hong Kong reinsurance business only;

(b) an authorized insurer which is a captive insurer.

(2B) Without limiting subsection (2A), section 64G or 118 does not prohibit an employee of an authorized insurer from carrying on a regulated activity if carrying on that activity only involves the discharge of any of the following duties for the insurer in the course of employment—

(a) to make an assessment of the risks to be accepted by the insurer under a contract of insurance;

(b) to determine the terms and conditions of a contract of insurance to be issued by the insurer;

(c) to process any claim lodged under a contract of insurance issued by the insurer.

(3) In subsection (1)—

actuary (精算師) means a person who holds a qualification specified in the Schedule to the Insurance Companies (Actuaries' Qualifications) Regulations (Cap. 41 sub. leg. A) or specified in a guideline published under section 131;

specified company (指明公司), in relation to a company, means—

- (a) a wholly owned subsidiary of the company;
- (b) another company which holds all the issued shares of the company; or
- (c) a wholly owned subsidiary of that other company mentioned in paragraph (b).

- (4) For the purposes of this section, a company is a wholly owned subsidiary of another company if it has only the following as members—
 - (a) that other company;
 - (b) a nominee of that other company;
 - (c) a wholly owned subsidiary of that other company;
 - (d) a nominee of such a wholly owned subsidiary.
- (5) The Financial Secretary may, by notice published in the Gazette, amend subsection (1).

122. Offences by bodies corporate and partners

- (1) If an offence under this Ordinance is committed by a body corporate, and it is proved that the offence—
 - (a) was committed with the consent or connivance of an individual specified in subsection (3); or
 - (b) was attributable to any neglect or omission on the part of an individual specified in subsection (3),
the individual also commits the offence.
- (2) If a person who commits an offence under this Ordinance is a partner of a partnership, and it is proved that the offence—
 - (a) was committed with the consent or connivance of any other partner ~~or any person concerned in the management~~ of the partnership; or
 - (b) was attributable to any neglect or omission on the part of any other partner, ~~or any person concerned in the management~~ of the partnership,
the other partner ~~or the person concerned in the management~~ of the partnership also commits the offence.

[35]

- [35]
- (3) The individual specified for subsection (1) is—
- a controller (within the meaning of the relevant provisions) of the body corporate;
 - a director, ~~manager, company secretary or other person concerned in the management of the body corporate~~ (officer) or an individual purporting to act as the officer or as agent key person in control functions or responsible officer of the body corporate; or
 - if the body corporate is managed by its members, one of the members of the body corporate.
- (4) An offence under this Ordinance committed by a body corporate is presumed to have been committed with the consent or connivance of, or to be attributable to neglect or omission on the part of, a controller (within the meaning of the relevant provisions), director, ~~manager, company secretary~~ key person in control functions, responsible officer or member of the body corporate ~~or any other person~~ if it is proved that, at the time the offence was committed, the controller, director, ~~manager, company secretary~~ key person in control functions, responsible officer or member ~~or other person~~ was concerned in the management of the body corporate.
- (5) An offence under this Ordinance committed by a partner of a partnership is presumed to have been committed with the consent or connivance of, or to be attributable to neglect or omission on the part of, any other partner in the partnership ~~or any other person~~ if it is proved that, at the time the offence was committed, the other partner ~~or person~~ was concerned in the management of the partnership.

- (6) The presumption under subsection (4) or (5) is rebutted by a person charged with an offence under this Ordinance by virtue of that subsection if—
- there is sufficient evidence to raise an issue that the offence was committed without the person's consent or connivance and was not attributable to the person's neglect or omission; and
 - the contrary is not proved by the prosecution beyond reasonable doubt.

123. Time limit for proceedings for offences

Criminal proceedings for an offence under this Ordinance must be commenced within whichever of the following period expires first—

- the period of 3 years beginning on the date immediately after the date on which the offence is discovered by, or comes to the notice of, the Authority;
- the period of 6 years beginning on the date immediately after the offence is committed.

124. Prosecution of offences by Authority

- The Authority may prosecute an offence under this Ordinance, or an offence of conspiracy to commit such an offence, in its own name.
- However, if the Authority so prosecutes, the offence must be tried before a magistrate as an offence that is triable summarily.

~~(3) For the prosecution of an offence referred to in subsection (1), an employee of the Authority who is not qualified to practise as a barrister or to act as a solicitor under the Legal Practitioners Ordinance (Cap. 159)~~ [36]

[36]

- ~~(a) may appear and plead before a magistrate; and~~
~~(b) has, in relation to the prosecution, all the other rights of a person qualified to practise as a barrister or to act as a solicitor under that Ordinance.~~

- (4) This section does not derogate from the powers of the Secretary for Justice in respect of the prosecution of criminal offences.

Division 3—Services

125. Service of notices, etc.

A written notice or direction or other document (however described) permitted or required to be issued or served (however described) to or on a person, other than the Authority or the Monetary Authority, for this Ordinance is to be regarded as duly issued or served if—

- (a) for an individual, it is—
- (i) delivered to the individual by hand;
 - (ii) left at, or sent by post to, the last known business or residential address of the individual;
 - (iii) sent by fax transmission to the last known fax number of the individual; or
 - (iv) sent by electronic mail transmission to the last known electronic mail address of the individual;
- (b) for a company, it is—
- (i) delivered to any officer of the company by hand;

- (ii) left at, or sent by post to, the registered office of the company within the meaning of the Companies Ordinance (Cap. 622);
 - (iii) sent by fax transmission to the last known fax number of the company; or
 - (iv) sent by electronic mail transmission to the last known electronic mail address of the company;
- (c) for a non-Hong Kong company, it is—
- (i) delivered by hand to, or sent by post to, the person resident in Hong Kong who is authorized to accept service of process and notices on its behalf for the purposes of Part 16 of the Companies Ordinance (Cap. 622) at the person's address delivered to the Registrar of Companies under that Ordinance;
 - (ii) sent by fax transmission to the last known fax number of the person; or
 - (iii) sent by electronic mail transmission to the last known electronic mail address of the person;
- (d) for a partnership, it is—
- (i) delivered to any partner of the partnership by hand;
 - (ii) left at, or sent by post to, the last known principal place of business of the partnership;
 - (iii) sent by fax transmission to the last known fax number of the partnership; or
 - (iv) sent by electronic mail transmission to the last known electronic mail address of the partnership;

- (a) in relation to a matter relating to any of the functions of the Authority under this Ordinance; or
 - (b) in relation to the operation of a provision of this Ordinance.
- (2) To avoid doubt, the power of the Authority to publish codes or guidelines under this section is in addition to and not in derogation of any other power of the Authority to publish codes or guidelines under any provision of this or any other Ordinance.
- (3) The Authority may from time to time amend the whole or any part of a code or guideline published.
- (4) A failure on the part of a person to comply with the provisions set out in a code or guideline does not by itself render the person liable to any judicial or other proceedings.
- (5) However, in any proceedings under this Ordinance before a court—
- (a) the code or guideline is admissible in evidence; and
 - (b) if a provision in the code or guideline appears to the court to be relevant to a question arising in the proceedings, the court must, in determining the question, take into account any compliance or non-compliance of the provision.
- (6) A code or guideline published under this section—
- (a) may be of general or special application or may be made so as to apply only in specified circumstances; and
 - (b) may make different provisions for different circumstances and provide for different cases or classes of cases.

- (7) A code or guideline published under this section is not subsidiary legislation.

132. Orders and regulations for levies

~~(1) A levy specified by the Chief Executive in Council by order published in the Gazette is payable to the Authority by the person so specified in the order for every contract of insurance.~~

(1) If a contract of insurance relates to—

(a) a prescribed class of insurance business; or

(b) a prescribed type of contract of insurance,

a prescribed levy is payable to the Authority for the contract by its policy holder.

[37]

(2) For the purposes of subsection (1), the Chief Executive in Council, ~~by order published in the Gazette—~~

(aa) may specify any class of insurance business as a prescribed class of insurance business under subsection (1)(a);

(ab) may specify any type of contract of insurance as a prescribed type of contract of insurance under subsection (1)(b);

(ac) may specify any rate or amount as a prescribed levy under subsection (1);

(a) may specify the rate or amount of the prescribed levy payable for a contract of insurance—

(i) as a percentage of the premium payable for the contract of insurance;

(ii) as a fixed amount;

(iii) as a nil rate, nil amount or nil percentage; or

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- (iv) as to be calculated in any other manner specified in the order; and
- (b) may specify different rates for different classes of insurance business or different types of contract of insurance.
- (3) The Authority may recover the amount of a levy payable under this section as a civil debt due to it.
- (4) The Chief Executive in Council may make regulations for—
 - (a) the payment of levies;
 - (b) the payment of charges or penalties for late payment of levies; and
 - (c) the keeping, examination and audit of the accounts of authorized insurers and licensed insurance intermediaries relating to the collection and payment of levies.

133. Reduction of levies

- (1) If during a financial year of the Authority the requirements set out in subsection (2) are met, the Authority must consult the Financial Secretary with a view to recommending to the Chief Executive in Council that the rate or amount of a levy be reduced.
- (2) The requirements are—
 - (a) that the reserves of the Authority, after deducting depreciations and all provisions, are more than twice its estimated operating expenses for the financial year; and
 - (b) that the Authority has no outstanding debt.
- (3) The Authority may, after consulting the Financial Secretary under subsection (1), recommend to the Chief

Executive in Council that the rate or amount of a levy be reduced.

134. Procedural requirements for publishing notices under sections 13AE(14) and 121(5)

- (1) If the Financial Secretary proposes to publish a notice under section 13AE(14) or 121(5), the Financial Secretary must publish a draft of the proposed notice, in the manner the Financial Secretary considers appropriate, for inviting representations on the proposed notice by the public.
- (2) If the Financial Secretary publishes a notice after a draft has been published under subsection (1), the Financial Secretary must comply with subsections (3) and (4).
- (3) The Financial Secretary must publish, in the manner that it considers appropriate, an account setting out in general terms—
 - (a) the representations made on the draft; and
 - (b) the response of the Financial Secretary to the representations.
- (4) If the Financial Secretary considers the notice published is significantly different from the draft, the Financial Secretary must publish, in the manner the Financial Secretary considers appropriate, details of the difference.
- (5) Subsections (1) and (2) do not apply if the Financial Secretary considers, in the circumstances of the case, that—
 - (a) it is inappropriate or unnecessary that those subsections should apply; or
 - (b) the delay involved in complying with those subsections would not be—

- (3) A member of the Authority may at any time resign from office by notice in writing to the Chief Executive.
- (4) Unless it is otherwise provided in the terms and conditions of the appointment under subsection (2), a notice of resignation takes effect—
 - (a) on the date specified in the notice; or
 - (b) if no date is so specified, on the date of receipt by the Chief Executive of the notice.
- (5) The Authority must pay a member of the Authority the remuneration, allowances or expenses determined by the Chief Executive.

4. Removal of members of Authority

- (1) If the Chief Executive is satisfied that a member of the Authority—
 - (a) has become a public officer;
 - (b) has become bankrupt;
 - (c) is incapacitated by physical or mental illness;
 - (d) is convicted in Hong Kong of an offence that is punishable by imprisonment for 12 months or more, or is convicted elsewhere than in Hong Kong of an offence that, if committed in Hong Kong, would be an offence so punishable; or
 - (e) is otherwise unable or unfit to perform the functions of a member of the Authority,
 the Chief Executive may declare the member's office to be vacant.
- (2) The Chief Executive must give notice of the declaration in the manner that the Chief Executive thinks fit.

- (3) Subsection (4) applies if the notice of the declaration is given otherwise than by notice published in the Gazette.
- (4) The Chief Executive must, as soon as practicable after giving notice under subsection (2), give another notice of the declaration by notice published in the Gazette.

5. Disclosure of ~~pecuniary~~ interests by members of Authority

- (1) If—
 - (a) a member of the Authority has ~~a pecuniary interest~~, in a matter that is considered or is to be considered at a meeting of the Authority, an interest which is of a class or description determined by the Authority under subsection (2); and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as practicable after becoming aware of the relevant facts, disclose the ~~nature of the~~ interest at a meeting of the Authority. [38]

~~(2) A disclosure by a member of the Authority at a meeting of the Authority that the member—~~

~~(a) is an officer or member, or is in the employment, of a specified company or other body;~~

~~(b) is a partner, or is in the employment, of a specified person; or~~

~~(c) has some other specified interest relating to a specified company or other body or to a specified person;~~

~~is a sufficient disclosure of the nature of the interest in a matter relating to that company or other body or to that person which may arise after the date of the disclosure~~

~~and which is required to be disclosed under subsection (1).~~

~~(2) The Authority may—~~

~~(a) determine the class or description of the interest required to be disclosed;~~

~~(b) determine the details of the interest required to be disclosed and the manner in which the interest is to be disclosed; and~~

~~(c) from time to time change any matter determined under paragraph (a) or (b).~~

(3) Particulars of a disclosure made under this section must be recorded by the Authority in a book kept for the purpose and that book must be open at all reasonable hours to inspection by the public.

[38]

(4) After a member of the Authority has disclosed ~~the nature of~~ an interest in a matter, the member must not, unless the Authority otherwise determines—

(a) be present during a deliberation of the Authority with respect to the matter; or

(b) take part in a decision of the Authority with respect to the matter.

(5) For making a determination by the Authority under subsection (4), a member of the Authority who has ~~a pecuniary-an~~ interest in a matter to which the disclosure relates—

(a) must not be present during the Authority's deliberation for making the determination; and

(b) must not take part in the Authority's making of the determination.

(6) A contravention of this section does not invalidate a decision of the Authority.

6. Meetings

(1) Meetings of the Authority—

(a) must be held as often as necessary for performing its functions; and

(b) may be convened by the chairperson, deputy chairperson, chief executive officer, or any 2 other members, of the Authority.

(2) At a meeting of the Authority—

(a) if the chairperson of the Authority is present—he or she is to be the chairperson of the meeting;

(b) if the chairperson of the Authority is not present but the deputy chairperson of the Authority is present—the deputy chairperson is to be the chairperson of the meeting; or

(c) if neither the chairperson nor the deputy chairperson of the Authority is present—the members of the Authority present must choose one of their number to be the chairperson of the meeting.

(3) The quorum for a meeting of the Authority is the number that is not less than one-third of the number of the executive directors of the Authority and not less than one-third of the number of the non-executive directors of the Authority.

(4) Despite section 1(6) and (7) of this Schedule, for forming a quorum under subsection (3)—

8. Seal and regulation of administration, etc.

- (1) The Authority must have a seal, the affixing of which must be authenticated by—
 - (a) the signature of the chairperson or the deputy chairperson of the Authority; or
 - (b) the signature of another member of the Authority authorized by it to act in that behalf.
- (2) A document purporting to be a document duly executed under the seal of the Authority is to be received in evidence without further proof and is, unless the contrary is proved, to be regarded as a document so executed on being received in evidence.
- (3) The Authority must organize and regulate its administration, procedure and business in a manner that it considers will, subject to the requirements of this Ordinance, best ensure the performance of its functions.

Schedule 1C

[s. 4C]

**Constitution and Proceedings of Industry
Advisory Committees**

1. An industry advisory committee consists of the following members—
 - (a) the chairperson of the Authority;
 - (b) the chief executive officer of the Authority;

- (c) not more than 2 other executive directors of the Authority who must be appointed by the Authority; **[T]**
and
 - (d) not less than 8 but not more than 12 other members who must be appointed by the Financial Secretary after consultation with the Authority.
2. In appointing a person as a member under section 1(d) of this Schedule, the Financial Secretary must have been satisfied that in the opinion of the Authority, the person has knowledge of, or experience in, the insurance industry, and the conduct of regulated activities and consumer affairs.
 3. An industry advisory committee must meet at least once every 3 months to advise the Authority.
 4. A meeting of an industry advisory committee may be convened by—
 - (a) the chairperson of the Authority;
 - (b) the chief executive officer of the Authority; or
 - (c) any 3 other members of the industry advisory committee.
 5. At a meeting of an industry advisory committee—
 - (a) if the chairperson of the Authority is present—he or she is to be the chairperson of the meeting; or
 - (b) if the chairperson of the Authority is not present—the members of the industry advisory committee present must choose one of their number to be the chairperson of the meeting.
 6. The quorum for a meeting of an industry advisory committee is a majority of its members.
 7. If a member of an industry advisory committee appointed under section 1(c) of this Schedule ceases to be an executive

“[para. 3, Sch. 2]”.

(10A) Schedule 2, Form C, heading—

Repeal

“13A(1)”

Substitute

“13A(12)”.

- (11) Schedule 2, Form C—

Repeal

“Name of insurer”

Substitute

“Name of authorized insurer”.

(12) Schedule 2, Form C—

Repeal

“13A(1)” (wherever appearing)

Substitute

“13A(12)”.

88. Third Schedule amended (accounts and statements)

- (1) Third Schedule, English text, heading—

Repeal

“THIRD SCHEDULE”

Substitute

“Schedule 3”.

- (2) Schedule 3—

Repeal

“[ss. 17, 18, 22 & 50]”

Substitute

“[ss. 2, 10, 15A, 15B, 17, 18, 20, 21, 22A, 25A, 25B, 50C & 136]”.

- (3) Schedule 3, English text, Part 1, paragraph 1(1), definition of *accounting class of general business* and *accounting class*—

Repeal

“the First Schedule”

Substitute

“Schedule 1”.

- (4) Schedule 3, Part 1, paragraph 4(1)(a)(ii)—

Repeal

“regulations made under section 59(1)(aa)”

Substitute

“rules made under section 127(1)(b)”.

- (5) Schedule 3, Part 1, paragraph 4(1AC)(c)(ii)—

Repeal

“regulations made under section 59(1)(aa)”

Substitute

“rules made under section 127(1)(b)”.

- (6) Schedule 3, English text, Part 1, paragraph 5(1)(b)(i)(B)—

Repeal

“the First Schedule”

Substitute

“Schedule 1”.

- (7) Schedule 3, Part 1, paragraph 5(1)(b)(ii)—

Repeal

“regulations made under section 59(1)(ab)”

- “Schedule 1”.
- (17) Schedule 3, English text, Part 8, paragraph 41(2)—
Repeal
“the First Schedule”
Substitute
“Schedule 1”.
- (18) Schedule 3, English text, Part 8, Form HKL1, Note—
Repeal
“the First Schedule”
Substitute
“Schedule 1”.
- (19) Schedule 3, Part 8, Form HKL1, Note—
Repeal
“Insurance Companies Ordinance”
Substitute
“Insurance Ordinance”.
- (20) Schedule 3, English text, Part 8, Form HKL2, Note 1—
Repeal
“the First Schedule”
Substitute
“Schedule 1”.
- (21) Schedule 3, Part 8, Form HKL2, Note 1—
Repeal
“Insurance Companies Ordinance”
Substitute
“Insurance Ordinance”.

- 89. Fourth Schedule amended (proposed appointment of controller within the meaning of section 13A(1) or authorized representative under section 50B)**
- (1) Fourth Schedule, English text, heading—
Repeal
“FOURTH SCHEDULE”
Substitute
“Schedule 4”.
- (2) Schedule 4—
Repeal
“[ss. 13A(2)(a) & 50B]”
Substitute
“[ss. 13A, 13AC, 13AE, 50B & 136]”.
- (3) Schedule 4, English text, paragraph 1, heading—
Repeal
“**Fourth Schedule**”
Substitute
“**Schedule 4**”.
- (3A) Schedule 4, paragraph 1(a)—
Repeal
“13A(2)(a)”
Substitute
“13A(3)(a)”.
- (3B) Schedule 4, paragraph 1(a)—
Repeal
“13A(1)”

[T]

Substitute“13A(12)”.(3C) Schedule 4, paragraph 2(a)—**Repeal**“13A(2)(a)”

[T]

Substitute“13A(3)(a)”.(3D) Schedule 4, paragraph 2(a)—**Repeal**“13A(1)”**Substitute**“13A(12)”.

(4) Schedule 4, English text, Form A—

Repeal

“[para. 2, 4th Sch.]”

Substitute

“[para. 2, Sch. 4]”.

(4A) Schedule 4, Form A, heading—**Repeal**“13A(1)”

[T]

Substitute“13A(12)”.(4B) Schedule 4, Form A—**Repeal**“13A(1)” (wherever appearing)**Substitute**“13A(12)”.

(5) Schedule 4, English text, Form B—

Repeal

“[para. 2, 4th Sch.]”

Substitute

“[para. 2, Sch. 4]”.

(5A) Schedule 4, Form B, heading—**Repeal**“13A(1)”**Substitute**“13A(12)”.(5B) Schedule 4, Form B—**Repeal**“13A(1)” (wherever appearing)**Substitute**“13A(12)”.

[T]

90. Fifth Schedule amended (person proposing to become controller within the meaning of section 13B(1))

(1) Fifth Schedule, English text, heading—

Repeal

“FIFTH SCHEDULE”

Substitute

“Schedule 5”.

(2) Schedule 5—

Repeal

“[s. 13B(2)(a)]”

Column 1	Column 2	Column 3
Item	Description of decision	Provision
	appointment of an individual as a controller of an authorized insurer	
6.	Refusal to approve the appointment of a person as a director of an authorized insurer	Section 13AC(5)
7.	Revocation of approval of appointment of a person as a director of an authorized insurer	Section 13AC(7)
8.	Refusal to approve the appointment of an individual as a key person in control functions of an authorized insurer	Section 13AE(5)
9.	Revocation of approval of appointment of an individual as a key person in control functions of an authorized insurer	Section 13AE(7)
10.	Imposition, amendment or revocation of a condition in relation to the approval of appointment of a controller, director or key person in control functions of an authorized insurer	Section 13AF
11.	Objection to a person being	Section 13B(4)

Column 1	Column 2	Column 3
Item	Description of decision	Provision
	proposed to become a controller of an authorized insurer	
12.	Objection to the appointment of a controller <u>or director</u> of an authorized insurer	Section 14(4)
13.	Refusal to approve the appointment of a person as an actuary of an authorized insurer	Section 15(3C)
14.	Revocation of approval of the appointment of a person as an actuary of an authorized insurer	Section 15(3E)
<u>14A.</u>	<u>Imposition, amendment or revocation of a condition in relation to the approval of appointment of an actuary of an authorized insurer</u>	<u>Section 15AA</u>
<u>14B.</u>	<u>Objection to the appointment of an actuary of an authorized insurer</u>	<u>Section 15B(2A)</u>
15.	Imposition of a restriction on effecting or varying contracts of insurance by an authorized insurer	Section 27
16.	Imposition of a requirement on an authorized insurer	Section 28

[T]

[39]

Column 1	Column 2	Column 3
Item	Description of decision	Provision
	about investments	
17.	Imposition of a requirement on an authorized insurer about maintenance of assets in Hong Kong	Section 29
18.	Imposition of an additional requirement on an authorized insurer about custody of assets	Section 30
19.	Imposition of a limitation of the premium income to be received by an authorized insurer	Section 31
20.	Imposition of a requirement on an authorized insurer	Section 35(1)
[40] <u>20A.</u>	<u>Direction in respect of the affairs, business and property of an authorized insurer</u>	<u>Section 35(2)</u>
21.	Rescission or variation of a requirement imposed under sections 27 to 35(1)	Section 38(1)
22.	Determination of remuneration and expenses to be paid by an authorized insurer to an Advisor or Manager	Section 38E(5)
23.	Exercise of power to take	Section 41P(1)

Column 1	Column 2	Column 3
Item	Description of decision	Provision
	disciplinary action against an authorized insurer	
24.	Refusal to approve the appointment of a person as the authorized representative of Lloyd's	Section 50B
25.	Revocation of approval of the appointment of a person as the authorized representative of Lloyd's	Section 50B
26.	Exercise of power to take disciplinary action against Lloyd's, etc.	Section 50G

Part 2

Specified Decisions Made in respect of Insurance Intermediaries

Column 1	Column 2	Column 3
Item	Description of decision	Provision
1.	Refusal to grant an insurance agency licence	Section 64U(4)
2.	Refusal to grant an individual insurance agent licence	Section 64W(2)
3.	Refusal to grant a technical representative	Section 64Y(2)

Column 1	Column 2	Column 3
Item	Description of decision	Provision
	(agent) licence	
4.	Refusal to grant an insurance broker company licence	Section 64ZA(3)
5.	Refusal to grant a technical representative (broker) licence	Section 64ZC(2)
6.	Refusal to approve an individual as a responsible officer of a licensed insurance agency	Section 64ZE(3)
7.	Refusal to approve an individual as a responsible officer of a licensed insurance broker company	Section 64ZF(3)
8.	Imposition, amendment or revocation of a condition in relation to a licence granted under section 64U, 64W, 64Y, 64ZA or 64ZC or approval granted under section 64ZE or 64ZF	Section 64ZG
9.	Revocation of the approval granted under section 64ZE	Section 64ZL(2)
10.	Revocation of the approval granted under	Section 64ZM(2)

Column 1	Column 2	Column 3
Item	Description of decision	Provision
	section 64ZF	
11.	Refusal to renew a licence granted under section 64U, 64W, 64Y, 64ZA or 64ZC	Section 64ZV(4)
12.	Imposition, amendment or revocation of a condition in relation to a renewal of a licence granted under section 64U, 64W, 64Y, 64ZA or 64ZC	Section 64ZW
13.	Exercise of power to take disciplinary action	Section 80(1), (2) and (3)
14.	Revocation or suspension of a licence or approval that is regarded as having been granted under Part 4 of Schedule 11	Section 105 of Schedule 11
15.	Imposition, amendment or revocation of a condition in relation to a licence or approval that is regarded as having been granted under Part 4 of Schedule 11	Section 106 of Schedule 11
16.	Exercise of power to take disciplinary action against, or i Imposition of	Section 110(3) 108(4) of Schedule 11

[41]

Column 1	Column 2	Column 3
Item	Description of decision	Provision
	a penalty or disciplinary sanction on; a specified person as defined by section 107 of Schedule 11	
17.	Exercise of power to take disciplinary action against, or imposition of a penalty or sanction on, a specified person as defined by section 111 of Schedule 11	Section 113 of Schedule 11

Schedule 10[ss. 95, 96,
97, 100,
103 & 115]**Appointment of Members and Proceedings of Tribunal, etc.****1. Interpretation**

(1) In this Schedule—

application for review (覆核申請) means an application made under section 98;**chairperson** (主席) means the chairperson of the Tribunal;**ordinary member** (普通成員) means a member of the Tribunal other than the chairperson;**panel member** (上訴委員) means a member of the panel appointed under section 2 of this Schedule;~~**parties** (各方), in relation to a review, means—~~~~(a) the Authority; and~~~~(b) the person making the application for review in question;~~**Secretary** (局長) means the Secretary for Financial Services and the Treasury.

(2) In this Schedule—

~~**parties** (各方), **review** (覆核), and **specified decision** (指明決定) and **Tribunal** (審裁處) have the same meaning as in Part XII.~~

[30]

2. Appointment of panel

(1) Subject to section 96, the Chief Executive must appoint persons to a panel comprising the number of members that the Chief Executive considers appropriate.

(2) A panel member—

(a) must not be a public officer (except a public officer by virtue only of being the chairperson of a board or tribunal established under an Ordinance); and

(b) must not be a member of the Authority.

(3) Subject to subsections (4) and (5), a panel member is appointed for a period that the Chief Executive considers appropriate, and may, subject to the other provisions of this Ordinance, from time to time be reappointed.

(4) A panel member may at any time resign from office by notice in writing to the Chief Executive.

- (b) if a later date is specified in the notice, on that later date.
- (5) If an ordinary member ceases to be a panel member, he or she ceases to be an ordinary member.

4A. Further provisions relating to chairperson and ordinary members

(1) If, during the sittings of a review, there is a change in any of the persons specified in subsection (2), then—

(a) if the parties to the review so consent, the sittings may continue despite the change; or

(b) in the absence of the consent of the parties to the review, the sittings must not continue but may begin anew.

(2) The following persons are specified—

(a) the chairperson or a person acting as the chairperson in relation to the review;

(b) a panel member acting as an ordinary member in relation to the review.

5. Sittings

- (1) The chairperson must convene the sittings of the Tribunal that are necessary to determine a review.
- (2) Before convening a sitting in respect of a review, the Tribunal may give directions to the parties to the review concerning—
 - (a) procedural matters to be complied with by the parties; and
 - (b) the time within which the parties are required to comply with those matters.

- (3) Subject to subsection (4), at any sitting of the Tribunal—
 - (a) the chairperson and 2 ordinary members must be present;
 - (b) the chairperson must preside; and
 - (c) every question before the Tribunal must be determined by the majority of votes cast by the chairperson and the ordinary members, except that a question of law is to be determined by the chairperson alone.
- (4) At any sitting of the Tribunal held in respect of any matter which is determined by the chairperson alone as the sole member of the Tribunal under section 8(1) of this Schedule—
 - (a) the chairperson only must be present; and
 - (b) every question before the Tribunal must be determined by the chairperson.
- (5) Every sitting of the Tribunal must be held in public.
- (6) However, subsection (5) does not apply if the Tribunal, on its own initiative or on the application of any of the parties to the review, determines that in the interests of justice a sitting, or a part of the sitting, must be held in private.
- (7) If an application is made under subsection (6) for a determination that a sitting or any part of the sitting must be held in private, a hearing of the application must be held in private.
- (8) The parties to a review must, at any sitting of the Tribunal relating to the review, be entitled to be heard—
 - (a) in person, or—

[42]

- [T]
- (i) for the Authority or a company—through an officer or employee of the Authority or the company (as the case may be);
 - (ii) for a partnership—through a partner; or
 - (iii) for a sole proprietorship—through the sole proprietor; ~~and or~~
- (b) through a counsel or solicitor or, with the leave of the Tribunal, through any other person.
- (9) The chairperson must prepare or cause to be prepared a record of the proceedings at any sitting of the Tribunal, which must contain the particulars relating to the proceedings that the chairperson considers appropriate.
- (10) The order of proceedings at any sitting of the Tribunal must be determined by the Tribunal in the manner most appropriate to the circumstances of the case.

6. Preliminary conferences

- (1) If the conditions set out in subsection (2) are satisfied, the chairperson may, on his or her own initiative or on the application of any of the parties to the review, direct that a conference be held for any one or more of the purposes set out in subsection (3).
- (2) The conditions are—
- (a) the chairperson, after considering any material that has been submitted to the Tribunal in relation to the application for review by the parties to the review, considers it appropriate to hold the conference; and
 - (b) the parties agree or, for an application made by a party under subsection (1), the other party agrees.
- (3) The purposes are—

- (a) to enable the parties to prepare for the conduct of the review;
 - (b) to assist the Tribunal to determine issues for the purposes of the review;
 - (c) to generally secure the just, expeditious and economical conduct of the review.
- (4) A conference is to be attended by the parties or their representatives and presided over by the chairperson.
- (5) At a conference held in accordance with a direction of the chairperson under subsection (1), the chairperson may—
- (a) give any direction the chairperson considers necessary or desirable for securing the just, expeditious and economical conduct of the review; and
 - (b) endeavour to secure that the parties to the review make all agreements as they ought reasonably to have made in relation to the review.
- (6) After a conference has been held in accordance with a direction of the chairperson under subsection (1), the chairperson must report to the Tribunal on the matters relating to the conference that the chairperson considers appropriate.

7. Consent orders

- (1) At any time after an application for review has been made, the Tribunal or chairperson may make any order which it or the chairperson is entitled to make under any provision of this Ordinance, whether or not the requirements otherwise applicable to the making of the

9. Privileges and immunities

Except as otherwise provided in this Ordinance, the Tribunal, the chairperson and ordinary members, and any party, witness, counsel, solicitor, or any other person involved, in a review, have the same privileges and immunities in respect of the review as they would have if the review were civil proceedings before the Court of First Instance.

Schedule 11 [ss. 2, 13 & 137 & Sch. 9]

Savings and Transitional Arrangements for Insurance Companies (Amendment) Ordinance 2014

Part 1

Preliminary

1. Interpretation of Schedule 11

In this Schedule—

applicable rule (適用規則) means a rule that is—

- [T] (a) ~~referred to in~~ within the meaning of section 123 or 124 of this Schedule; and
- (b) published under section 125(1) of this Schedule;

approved broker body (認可經紀團體) means a body of insurance brokers approved under section 70 of the pre-amended Ordinance;

commencement date (實施日期)—

- (a) except in relation to Parts 4, 5, 6, 7 and 8 of this Schedule, means the date on which section 10 of the Amendment Ordinance comes into operation;
- (b) in relation to Parts 4, 5, 6, 7 and 8 of this Schedule, means the date on which section 71 of the Amendment Ordinance comes into operation;

HKFI (保聯) means the Hong Kong Federation of Insurers;

IARB (委員會) means the Insurance Agents Registration Board set up by HKFI;

information (資訊) includes data, text, images, sound codes, computer programmes, software and databases;

personal data (個人資料) has the meaning given by section 2(1) of the Personal Data (Privacy) Ordinance (Cap. 486);

record (紀錄) means information that is inscribed on, stored in or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form.

Part 2

Savings Provisions

2. Savings relating to former authority

- (1) If, immediately before the commencement date, an act was in the process of being done by or in relation to the former authority, the act may be continued by or in relation to the Authority.
- (2) If, immediately before the commencement date, any legal proceedings to which the former authority was a

it may be so used despite the fact that it contains a reference to the former authority, and that reference is to be construed as a reference to the Authority.

Part 3

Transfer of Records from Former Authority to Authority

3. Former authority to transfer records to Authority

[43]

- (1) All records in the former authority's custody and are, in the opinion of the Authority, required for it to perform its functions under this Ordinance must be transferred from the former authority to the Authority on or before the commencement date ~~or as soon as practicable after that date.~~
- (2) In relation to a record transferred under this section, all the rights and obligations of the former authority subsisting immediately before the transfer are to be transferred to the Authority on the transfer of the record.
- (3) The Authority must ensure that there are in place proper procedures and systems to safeguard against unauthorized access to, or unauthorized use of, the records transferred under this section.
- (4) In relation to personal data transferred under this section, the Personal Data (Privacy) Ordinance (Cap. 486) applies as if the data had been received by the Authority rather than the former authority.
- (5) In relation to personal data transferred under this section, ~~—~~
 - (a) the Authority must ensure that the data is used, disclosed and retained for the purpose for which

the data was to be used at the time of the collection; and

- (6b) ~~The~~ ~~the~~ Privacy Commissioner for Personal Data may, on and after the date on which the data is transfer~~transferred— is— completed~~, exercise in relation to the Authority any power under the ^[43] Personal Data (Privacy) Ordinance (Cap. 486) that the Commissioner could have, immediately before that date, exercised in relation to the former authority for a breach or alleged breach by the former authority of a requirement under that Ordinance.
- (7) The transfer of a record by the former authority to the Authority under this section does not amount to—
 - (a) a breach of duty of confidentiality to which the former authority is subject immediately before the transfer; or
 - (b) a contravention by the Authority or the former authority of the Personal Data (Privacy) Ordinance (Cap. 486).

Part 3A

Appeals to Financial Secretary that have been Made or could have been Made before Commencement Date

3A. Interpretation of Part 3A of this Schedule

In this Part—

specified decision () means—

[44]

[44]

- (a) a decision made by the former authority to refuse to authorize a company under section 8 of the pre-amended Ordinance on the ground (or on grounds including the ground) that a person as mentioned in section 8(2) of the pre-amended Ordinance is not a fit and proper person to hold the position held by the person;
- (b) a decision of the former authority to refuse to authorize a company under section 8(1)(b)(ii) of the pre-amended Ordinance;
- (c) a decision of the former authority to serve a notice of objection under section 13A(5) of the pre-amended Ordinance;
- (d) a decision of the former authority to serve a notice of objection under section 13B(4) of the pre-amended Ordinance;
- (e) a decision of the former authority to serve a notice of objection under section 14(4) of the pre-amended Ordinance;
- (f) a direction given by the former authority under section 35(2) of the pre-amended Ordinance;
- (g) a determination made by the former authority under section 38E(5) of the pre-amended Ordinance;
- (h) a decision of the former authority to serve a notice of objection under section 50B(3) of the pre-amended Ordinance;
- (i) a decision of the former authority to serve a notice of removal under section 50B(4) of the pre-amended Ordinance;

- (j) a decision of de-registration of a person as an appointed insurance agent as defined by section 2(1) of the pre-amended Ordinance under section 66(7) of the pre-amended Ordinance; or
- (k) a decision of the former authority under section 75(1) of the pre-amended Ordinance to withdraw—
 - (i) the authorization of an insurance broker as defined by section 2(1) of the pre-amended Ordinance; or
 - (ii) the approval of a body of insurance brokers approved under section 70 of the pre-amended Ordinance.

3B. Appeals not yet determined by Financial Secretary [44]

- (1) This section applies if an appeal against a specified decision—
 - (a) has been made to the Financial Secretary; but
 - (b) has not been finally disposed of before the commencement date.
- (2) On or after the commencement date—
 - (a) the Tribunal is to handle the appeal as if it was an appeal made to the Tribunal under section 3C of this Schedule; and
 - (b) the Financial Secretary is to cease to have power to handle the appeal.

3C. Appeals not made to Financial Secretary before commencement date

- (1) This section applies if—
 - (a) a specified decision was made before the commencement date;

(b) an appeal against the decision could have been made to the Financial Secretary under the pre-amended Ordinance but for the Amendment Ordinance;

(c) the period within which an appeal against the decision could be made has not expired, or there is no time limit prescribed for such an appeal, under the pre-amended Ordinance; and

(d) no appeal has been made to the Financial Secretary before the commencement date against the decision.

(2) On or after the commencement date, an appeal against the decision may only be made to the Tribunal.

[44]

3D. Determination of appeals under sections 3B and 3C of this Schedule

(1) An appeal mentioned in section 3B or 3C of this Schedule must be determined by the Tribunal by reference to the provisions of the pre-amended Ordinance that would have applied to the specified decision had the Financial Secretary continued to have the power to handle the appeal, or had the appeal been made to the Financial Secretary.

(2) Part XII applies to an appeal mentioned in section 3B or 3C of this Schedule as if—

(a) a reference to a review in that Part was a reference to such an appeal; and

(b) a reference to a party to a review included the Authority.

(3) However, the Tribunal must not determine the appeal by remitting the matter in question to the Financial Secretary.

Part 4

Savings and Transitional Arrangements Relating to Licensing and Approval

Division 1—Preliminary

4. Interpretation of ~~this Part~~ 4 of this Schedule

In this Part—

[T]

specified date (指明日期), in relation to an application made under section 64U(1), 64W(1), 64Y(1), 64ZA(1), 64ZC(1), 64ZE(1) or 64ZF(1)—

- (a) if the application is granted, means the date on which the application is granted by the Authority to the applicant;
- (b) if the application is rejected, means—
 - (i) the expiry of 21 days after the notice informing the applicant of the results of the application has been sent; or
 - (ii) (if an appeal is made against the results of the application within the period ending 21 days after the notice has been sent) the date on which the appeal is disposed of or withdrawn;

transitional period (過渡期) means the period of 3 years beginning on the commencement date.

Division 2—Savings and Transitional Arrangements for Insurance Agencies

Subdivision 1—General Provision

5. Insurance agencies registered with IARB

If a person was, immediately before the commencement date, registered with IARB as an insurance agency, the person is to be regarded as—

- (a) having been granted a licence under section 64U; and
- (b) being so licensed from the commencement date until the expiry of the transitional period.

Subdivision 2—Decision of Revocation not yet Taken Effect on Commencement Date

6. Application of section 7 of this Schedule

Section 7 of this Schedule applies if—

- (a) a person was registered with IARB as an insurance agency before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the person be revoked;
- (c) the decision has not taken effect on the commencement date; and
- (d) the person does not appeal against the decision.

7. No appeal against decision been made

Despite section 5 of this Schedule, the person is to be regarded as—

- (a) having been granted a licence under section 64U; and
- (b) being so licensed from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect.

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8. Application of sections 9, 10 and 11 of this Schedule

Sections 9, 10 and 11 of this Schedule apply if—

- (a) a person was registered with IARB as an insurance agency before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the person be revoked;
- (c) the decision has not taken effect on the commencement date; and
- (d) the person has appealed against the decision but the appeal is not finally disposed of before the commencement date or the person appeals against the decision on or after the commencement date.

9. No application for stay of execution or application for stay of execution rejected

If the person does not apply for a stay of execution of the decision or if the person makes such an application but the application is rejected, then despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

- (a) from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect; and
- (b) ~~on appeal—~~

[45]

[46]

- ~~(i) if the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule—from the date on which time the determination of the Tribunal takes effect until the expiry of the transitional period; or~~
- ~~(ii) if the decision is confirmed by the Tribunal but the person appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination—from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.~~

10. Stay of execution granted after decision takes effect

If the person applies for a stay of execution of the decision after the decision takes effect and the application is granted, then despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

- (a) from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect; and
- (b) on appeal—
- (i) if the decision is reversed by the Tribunal, subject to section 19(1) of this Schedule—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the expiry of the transitional period;
- (ii) if the decision is confirmed by the Tribunal—from the ~~date on which time~~ the application for the stay of execution of the decision is

[45]

- granted until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or
- (iii) if the appeal is withdrawn—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the appeal is withdrawn.

11. Stay of execution granted before decision takes effect

If the person applies for a stay of execution of the decision before the decision takes effect and the application is granted, then despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

[45]

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule—from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the ~~expiry of the date on which time~~ the appeal is withdrawn.

Subdivision 3—Stay of Execution Granted before Commencement Date

12. Application of section 13 of this Schedule

Section 13 of this Schedule applies if—

- (a) a person was registered with IARB as an insurance agency before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the person be revoked;
- (c) the person has appealed against the decision and applied for a stay of execution of the decision and the application was granted before the commencement date; and
- (d) the appeal is not finally disposed of ~~on~~before the commencement date.

[45] 13. **Stay of execution granted ~~before commencement date~~ and appeal not disposed of ~~on~~before commencement date**

Despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule— from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the ~~expiry of the date on which time~~ the appeal is withdrawn.

Subdivision 4—Decision of Revocation Taken Effect on or before Commencement Date

14. Application of sections 15 and 16 of this Schedule

Sections 15 and 16 of this Schedule apply if—

- (a) a person was registered with IARB as an insurance agency before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the person be revoked;
- (c) the decision has taken effect on or before the commencement date;
- (d) the person appeals against the decision before, on or after the commencement date; and
- (e) (if the person has appealed against the decision before the commencement date) the appeal is not finally disposed of ~~on~~before the commencement date.

[45]

15. No application for stay of execution or application for stay of execution rejected

~~If—~~

- ~~(a) the person does not apply for a stay of execution of the decision or the person makes such an application but the application is rejected; and~~
- ~~(b) the decision is reversed by the Tribunal on appeal, then despite section 5 of this Schedule and subject to section 19(1) of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.~~

If the person does not apply for a stay of execution of the decision or the person makes such an application but the application is rejected, then despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

(a) if the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule— from the time the determination of the Tribunal takes effect until the expiry of the transitional period; or

[46] (b) if the decision is confirmed by the Tribunal on appeal, but the person appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination— from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.

16. Stay of execution granted after commencement date

If the person applies for a stay of execution of the decision and the application is granted after the commencement date, then despite section 5 of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed—

(a) if the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule— from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the expiry of the transitional period;

[45]

(b) if the decision is confirmed by the Tribunal on appeal— from the ~~date on which time~~ the application for the stay of execution of the decision

is granted until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or [45]

(c) if the appeal is withdrawn— from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the appeal is withdrawn.

Subdivision 5—Application for Registration Rejected before Commencement Date

17. Applications for registration rejected

If—

~~(a) a person applied to IARB for registration as an insurance agency but IARB has, before the commencement date, made a decision that the application be rejected;~~

~~(b) the person appeals against the decision; and~~

~~(c) the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule, the person is to be regarded as having been granted a licence under section 64U and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.~~

If a person applied to IARB for registration as an insurance agency but IARB has, before the commencement date, made a decision that the application be rejected and the person appeals against the decision, the person is to be regarded as having been granted a licence under section 64U and as being so licensed— [46]

(a) if the decision is reversed by the Tribunal on appeal, subject to section 19(1) of this Schedule—

from the time the determination of the Tribunal takes effect until the expiry of the transitional period; or

[46]

(b) if the decision is confirmed by the Tribunal on appeal, but the person appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination—from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.

Subdivision 6—Supplementary Provisions

18. Appeals not disposed of on expiry of transitional period

In relation to sections 10, 11, 13 and 16 of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the person is to be regarded as having been granted a licence under section 64U until the expiry of that date.

19. Appeals to Court of Appeal

[T]

(1) In relation to sections 9(b)(i), 10(b)(i), 11(a), 13(a), 15(a), 16(a) and 17(a) of this Schedule, if—

(a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and

[45]

(b) the Court of Appeal reverses the determination, the licence regarded as having been granted under section 64U is to remain in force until the ~~expiry of the date on which time~~ the decision of the Court of Appeal takes effect.

(2) In relation to sections 10(b)(ii), 11(b), 13(b) and 16(b) of this Schedule, if—

(a) the person appeals to the Court of Appeal against the determination of the Tribunal; and

(b) the Court of Appeal reverses the determination, the person is also to be regarded as having been granted a licence under section 64U from the ~~date on which time~~ the decision of the Court of Appeal takes effect until the expiry of the transitional period.

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20. Effect of application for insurance agency licence

If a person who is regarded as having been granted a licence under section 64U makes an application for an insurance agency licence under that section in the manner, and within the time, specified by the Authority, the licence regarded as having been granted under that section is to remain in force until the specified date.

21. Conditions imposed by IARB

A condition imposed by IARB in relation to the registration of a person as an insurance agency that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to IARB) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the licence that is regarded as having been granted under section 64U to the person.

22. Requirements to comply with conditions

A person who is regarded as having been granted a licence under section 64U must, during the period when the licence is in force, comply with any condition under sections 21 and 106 of this Schedule.

23. Application of provisions relating to licensed insurance agencies

A provision in this Ordinance relating to a licensed insurance agency applies to a person who is regarded under this Division as having been granted a licence under section 64U.

Division 3—Savings and Transitional Arrangements for Individual Agents**Subdivision 1—General Provision****24. Individual agents registered with IARB**

If an individual was, immediately before the commencement date, registered with IARB as an individual agent, the individual is to be regarded as—

- (a) having been granted a licence under section 64W; and
- (b) being so licensed from the commencement date until the expiry of the transitional period.

Subdivision 2—Decision of Revocation not yet Taken Effect on Commencement Date**25. Application of section 26 of this Schedule**

Section 26 of this Schedule applies if—

- (a) an individual was registered with IARB as an individual agent before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;

- (c) the decision has not taken effect on the commencement date; and
- (d) the individual does not appeal against the decision.

26. No appeal against decision been made

Despite section 24 of this Schedule, the individual is to be regarded as—

- (a) having been granted a licence under section 64W; and
- (b) being so licensed from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect.

[45]

27. Application of sections 28, 29 and 30 of this Schedule

Sections 28, 29 and 30 of this Schedule apply if—

- (a) an individual was registered with IARB as an individual agent before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the decision has not taken effect on the commencement date; and
- (d) the individual has appealed against the decision but the appeal is not finally disposed of before the commencement date or the individual appeals against the decision on or after the commencement date.

28. No application for stay of execution or application for stay of execution rejected

If the individual does not apply for a stay of execution of the decision or if the individual makes such an application but the application is rejected, then despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

(a) from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect; and

(b) ~~on appeal—~~

~~(i) if the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule—from the date on which time the determination of the Tribunal takes effect until the expiry of the transitional period; or~~

~~(ii) if the decision is confirmed by the Tribunal, but the individual appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination—from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.~~

29. Stay of execution granted after decision takes effect

If the individual applies for a stay of execution of the decision after the decision takes effect and the application is granted, then despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

(a) from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect; and

(b) on appeal—

(i) if the decision is reversed by the Tribunal, subject to section 38(1) of this Schedule—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the expiry of the transitional period; [45]

(ii) if the decision is confirmed by the Tribunal—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or

(iii) if the appeal is withdrawn—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the appeal is withdrawn.

30. Stay of execution granted before decision takes effect

If the individual applies for a stay of execution of the decision before the decision takes effect and the application is granted, then despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

(a) if the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule—from the commencement date until the expiry of the transitional period;

- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the ~~expiry of the date on which time~~ the appeal is withdrawn.

Subdivision 3—Stay of Execution Granted before Commencement Date

31. Application of section 32 of this Schedule

Section 32 of this Schedule applies if—

- (a) an individual was registered with IARB as an individual agent before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the individual has appealed against the decision and applied for a stay of execution of the decision and the application was granted before the commencement date; and
- (d) the appeal is not finally disposed of ~~on-before~~ the commencement date.

32. Stay of execution granted ~~before commencement date~~ and appeal not disposed of ~~on-before~~ commencement date

Despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule—from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the ~~expiry of the date on which time~~ the appeal is withdrawn.

Subdivision 4—Decision of Revocation Taken Effect on or before Commencement Date

[45]

33. Application of sections 34 and 35 of this Schedule

Sections 34 and 35 of this Schedule apply if—

- (a) an individual was registered with IARB as an individual agent before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the decision has taken effect on or before the commencement date;
- (d) the individual appeals against the decision before, on or after the commencement date; and
- (e) (if the individual has appealed against the decision before the commencement date) the appeal is not finally disposed of ~~on-before~~ the commencement date.

[45]

34. No application for stay of execution or application for stay of execution rejected

~~If—~~

~~—(a) the individual does not apply for a stay of execution of the decision or the individual makes such an application but the application is rejected; and~~

~~—(b) the decision is reversed by the Tribunal on appeal, then despite section 24 of this Schedule and subject to section 38(1) of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.~~

~~If the individual does not apply for a stay of execution of the decision or the individual makes such an application but the application is rejected, then despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—~~

~~(a) if the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule— from the time the determination of the Tribunal takes effect until the expiry of the transitional period; or~~

~~(b) if the decision is confirmed by the Tribunal on appeal, but the individual appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination— from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.~~

[46]

35. Stay of execution granted after commencement date

If the individual applies for a stay of execution of the decision and the application is granted after the commencement date, then despite section 24 of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

(a) if the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule— from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the expiry of the transitional period;

(b) if the decision is confirmed by the Tribunal on appeal— from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or

(c) if the appeal is withdrawn— from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the appeal is withdrawn.

[45]

Subdivision 5—Application for Registration Rejected before Commencement Date**36. Applications for registration rejected**

~~If—~~

~~—(a) an individual applied to IARB for registration as an individual agent but IARB has, before the commencement date, made a decision that the application be rejected;~~

~~—(b) the individual appeals against the decision; and~~

~~—(c) the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.~~

If an individual applied to IARB for registration as an individual agent but IARB has, before the commencement date, made a decision that the application be rejected, and the individual appeals against the decision, the individual is to be regarded as having been granted a licence under section 64W and as being so licensed—

[46]

(a) if the decision is reversed by the Tribunal on appeal, subject to section 38(1) of this Schedule— from the time the determination of the Tribunal takes effect until the expiry of the transitional period; or

(b) if the decision is confirmed by the Tribunal on appeal, but the individual appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination—from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.

Subdivision 6—Supplementary Provisions

37. Appeals not disposed of on expiry of transitional period

In relation to sections 29, 30, 32 and 35 of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the individual is to be regarded as

having been granted a licence under section 64W until the expiry of that date.

38. Appeals to Court of Appeal

(1) In relation to sections 28(b)(i), 29(b)(i), 30(a), 32(a), 34(a), 35(a) and 36(a) of this Schedule, if— [T]

(a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and

(b) the Court of Appeal reverses the determination, the licence regarded as having been granted under section 64W is to remain in force until the ~~expiry of the date on which time~~ the decision of the Court of Appeal takes effect.

(2) In relation to sections 29(b)(ii), 30(b), 32(b) and 35(b) of this Schedule, if—

(a) the individual appeals to the Court of Appeal against the determination of the Tribunal; and [45]

(b) the Court of Appeal reverses the determination, the individual is also to be regarded as having been granted a licence under section 64W from the ~~date on which time~~ the decision of the Court of Appeal takes effect until the expiry of the transitional period.

39. Effect of application for individual insurance agent licence

If an individual who is regarded as having been granted a licence under section 64W makes an application for an individual insurance agent licence under that section in the manner, and within the time, specified by the Authority, the licence regarded as having been granted under that section is to remain in force until the specified date.

45. No appeal against decision been made

Despite section 43 of this Schedule, the individual is to be regarded as—

- (a) having been granted a licence under section 64Y; and
- (b) being so licensed from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect.

[45]

46. Application of sections 47, 48 and 49 of this Schedule

Sections 47, 48 and 49 of this Schedule apply if—

- (a) an individual was registered with IARB as a technical representative or a responsible officer before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the decision has not taken effect on the commencement date; and
- (d) the individual has appealed against the decision but the appeal is not finally disposed of before the commencement date or the individual appeals against the decision on or after the commencement date.

47. No application for stay of execution or application for stay of execution rejected

If the individual does not apply for a stay of execution of the decision or if the individual makes such an application but the application is rejected, then despite section 43 of this Schedule, the individual is to be regarded as having been

granted a licence under section 64Y and as being so licensed—

- (a) from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect; [45] and
- (b) ~~on appeal—~~
 - ~~(i) if the decision is reversed by the Tribunal on appeal, subject to section 57(1) of this Schedule—from the date on which time the determination of the Tribunal takes effect until the expiry of the transitional period; or~~
 - ~~(ii) if the decision is confirmed by the Tribunal, but the individual appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination—from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.~~ [46]

48. Stay of execution granted after decision takes effect

If the individual applies for a stay of execution of the decision after the decision takes effect and the application is granted, then despite section 43 of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed—

- (a) from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect; [45] and
- (b) on appeal—
 - (i) if the decision is reversed by the Tribunal, subject to section 57(1) of this Schedule—

from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the expiry of the transitional period;

- (ii) if the decision is confirmed by the Tribunal— from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or
- (iii) if the appeal is withdrawn—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the appeal is withdrawn.

[45]

49. Stay of execution granted before decision takes effect

If the individual applies for a stay of execution of the decision before the decision takes effect and the application is granted, then despite section 43 of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 57(1) of this Schedule— from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or

- (c) if the appeal is withdrawn—from the commencement date until the ~~expiry of the date on which time~~ the appeal is withdrawn. [45]

Subdivision 3—Stay of Execution Granted before Commencement Date

50. Application of section 51 of this Schedule

Section 51 of this Schedule applies if—

- (a) an individual was registered with IARB as a technical representative or a responsible officer before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the individual has appealed against the decision and applied for a stay of execution of the decision and the application was granted before the commencement date; and
- (d) the appeal is not finally disposed of ~~on before~~ the commencement date. [45]

51. Stay of execution granted ~~before commencement date~~ and appeal not disposed of ~~on before~~ commencement date

Despite section 43 of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 57(1) of this Schedule— from the commencement date until the expiry of the transitional period;

- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the ~~expiry of the date on which time~~ the appeal is withdrawn.

Subdivision 4—Decision of Revocation Taken Effect on or before Commencement Date

52. Application of sections 53 and 54 of this Schedule

Sections 53 and 54 of this Schedule apply if—

[45]

- (a) an individual was registered with IARB as a technical representative or a responsible officer before the commencement date;
- (b) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (c) the decision has taken effect on or before the commencement date;
- (d) the individual appeals against the decision before, on or after the commencement date; and
- (e) (if the individual has appealed against the decision before the commencement date) the appeal is not finally disposed of ~~on~~ before the commencement date.

53. No application for stay of execution or application for stay of execution rejected

~~If—~~

~~(a) the individual does not apply for a stay of execution of the decision or the individual makes such an application but the application is rejected; and~~

~~(b) the decision is reversed by the Tribunal on appeal, then despite section 43 of this Schedule and subject to section 57(1) of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.~~

~~If the individual does not apply for a stay of execution of the decision or the individual makes such an application but the application is rejected, then despite section 43 of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed—~~

~~(a) if the decision is reversed by the Tribunal on appeal, subject to section 57(1) of this Schedule— from the time the determination of the Tribunal takes effect until the expiry of the transitional period; or~~

~~(b) if the decision is confirmed by the Tribunal on appeal, but the individual appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination—from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.~~

[46]

54. Stay of execution granted after commencement date

If the individual applies for a stay of execution of the decision and the application is granted after the commencement date,

then despite section 43 of this Schedule, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed—

- [45]
- (a) if the decision is reversed by the Tribunal on appeal, subject to section 57(1) of this Schedule—
from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the expiry of the transitional period;
 - (b) if the decision is confirmed by the Tribunal on appeal—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or
 - (c) if the appeal is withdrawn—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the appeal is withdrawn.

Subdivision 5—Application for Registration Rejected before Commencement Date

55. Applications for registration rejected

If—

- ~~—(a) an individual applied to IARB for registration as a technical representative or a responsible officer but IARB has, before the commencement date, made a decision that the application be rejected;~~
- ~~—(b) the individual appeals against the decision; and~~
- ~~—(c) the decision is reversed by the Tribunal on appeal,~~
subject to section 57(1) of this Schedule, the individual is to be regarded as having been granted a licence under section

~~64Y and as being so licensed from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.~~

If the individual applied to IARB for registration as a technical representative or a responsible officer but IARB has, before the commencement date, made a decision that the application be rejected and the individual appeals against the decision, the individual is to be regarded as having been granted a licence under section 64Y and as being so licensed—

(a) if the decision is reversed by the Tribunal on appeal, subject to section 57(1) of this Schedule—
from the time the determination of the Tribunal takes effect until the expiry of the transitional period; or

(b) if the decision is confirmed by the Tribunal on appeal, but the individual appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination—from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.

[46]

Subdivision 6—Supplementary Provisions

56. Appeals not disposed of on expiry of transitional period

In relation to sections 48, 49, 51 and 54 of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the individual is to be regarded as having been granted a licence under section 64Y until the expiry of that date.

57. Appeals to Court of Appeal

[T]

(1) In relation to sections 47(b)(i), 48(b)(i), 49(a), 51(a), 53(a), 54(a) and 55(a) of this Schedule, if—

(a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and

(b) the Court of Appeal reverses the determination, the licence regarded as having been granted under section 64Y is to remain in force until the ~~expiry of the date on which time~~ the decision of the Court of Appeal takes effect.

[45]

(2) In relation to sections 48(b)(ii), 49(b), 51(b) and 54(b) of this Schedule, if—

(a) the individual appeals to the Court of Appeal against the determination of the Tribunal; and

(b) the Court of Appeal reverses the determination, the individual is also to be regarded as having been granted a licence under section 64Y from the ~~date on which time~~ the decision of the Court of Appeal takes effect until the expiry of the transitional period.

58. Effect of application for technical representative (agent) licence

If an individual who is regarded as having been granted a licence under section 64Y makes an application for a technical representative (agent) licence under that section in the manner, and within the time, specified by the Authority, the licence regarded as having been granted under that section is to remain in force until the specified date.

59. Conditions imposed by IARB

A condition imposed by IARB in relation to the registration of an individual as a technical representative or a responsible officer (as the case may be) that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to IARB) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the licence that is regarded as having been granted under section 64Y to the individual.

60. Requirements to comply with conditions

An individual who is regarded as having been granted a licence under section 64Y must, during the period when the licence is in force, comply with any condition under sections 59 and 106 of this Schedule.

61. Application of provisions relating to licensed technical representative (agent)

A provision in this Ordinance relating to a licensed technical representative (agent) applies to an individual who is regarded under this Division as having been granted a licence under section 64Y.

Division 5—Savings and Transitional Arrangements for Authorized Insurance Brokers**Subdivision 1—General Provision****62. Authorized insurance brokers registered with approved broker bodies**

If a company was, immediately before the commencement date, registered with an approved broker body as a member, the company is to be regarded as—

- (a) having been granted a licence under section 64ZA; and
- (b) being so licensed from the commencement date until the expiry of the transitional period.

Subdivision 2—Decision of Expulsion not yet Taken Effect immediately before Commencement Date

63. Company being expelled from membership of approved broker body

- (1) Despite section 62 of this Schedule, if—
- (a) a company was registered with an approved broker body as a member before the commencement date;
 - (b) the approved broker body with which the company was registered has, before the commencement date, made a decision that the company be expelled from the membership of the body; and
 - (c) the decision has not taken effect **immediately before-on** the commencement date,
- subject to section 65(1) of this Schedule, the company is to be regarded as having been granted a licence under section 64ZA and as being so licensed from the commencement date until the **expiry of the date-time** specified in subsection (2).
- (2) The **date-time** specified for subsection (1) is—
- (a) if the company does not appeal against the decision, the **date-on-which-time** the decision takes effect;
 - (b) if the company appeals against the decision and—
 - (i) if the decision is reversed by the Tribunal on appeal, subject to section 65(1) of this

[45]

- Schedule, the **date-on-which-expiry of** the transitional period **expires**;
- (ii) if the decision is confirmed by the Tribunal on appeal, the **date-on-which-time** the determination of the Tribunal takes effect; or
 - (iii) if the appeal is withdrawn, the **date-on-which-time** the appeal is withdrawn.

Subdivision 3—Supplementary Provisions

64. Appeals not disposed of on expiry of transitional period

In relation to section 63(1) and (2)(b) of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the company is to be regarded as having been granted a licence under section 64ZA until the expiry of that date.

[45]

65. Appeals to Court of Appeal

- (1) In relation to section 63(1) and (2)(b)(i) of this Schedule, if—
- (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and
 - (b) the Court of Appeal reverses the determination, the licence regarded as having been granted under section 64ZA is to remain in force until the **expiry of the date-on-which-time** the decision of the Court of Appeal takes effect.
- (2) In relation to section 63(1) and (2)(b)(ii) of this Schedule, if—
- (a) the company appeals to the Court of Appeal against the determination of the Tribunal; and

(b) the Court of Appeal reverses the determination, the company is also to be regarded as having been granted a licence under section 64ZA from the ~~date on which time~~ the decision of the Court of Appeal takes effect until the expiry of the transitional period.

[45]

66. Effect of application for insurance broker company licence

If a company which is regarded as having been granted a licence under section 64ZA makes an application for an insurance broker company licence under that section in the manner, and within the time, specified by the Authority, the licence regarded as having been granted under that section is to remain in force until the specified date.

67. Conditions imposed by approved broker body

A condition imposed by an approved broker body in relation to the registration of a company as a member that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to the approved broker body) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the licence that is regarded as having been granted under section 64ZA to the company.

68. Requirements to comply with conditions

A company which is regarded as having been granted a licence under section 64ZA must, during the period when the licence is in force, comply with any condition under sections 67 and 106 of this Schedule.

69. Application of provisions relating to licensed insurance broker companies

~~A Subject to section 69A of this Schedule, a provision in this Ordinance relating to a licensed insurance broker company applies to a company which is regarded under this Division as having been granted a licence under section 64ZA.~~

69A. Application of section 64T to companies applying for de-registration

(1) This section applies to a company which—

(a) is regarded under this Division as having been granted a licence under section 64ZA; and

(b) has, before the commencement date, applied to an approved broker body for de-registration as a member of the body on the ground of cessation of business.

(2) Except as otherwise provided in this section, section 64T applies to the company.

(3) The company is to be regarded as having complied with section 64T(1).

(4) Despite section 64T(2) and (3), the company is only required to submit to the Authority, if so required by the Authority, any document specified in section 64T(2) not later than 6 months after the commencement date.

[47]

**Division 6—Savings and Transitional Arrangements
for Technical Representatives and Chief Executives
Registered with Approved Broker Bodies**

Subdivision 1—General Provision

70. Technical representatives and chief executives registered with approved broker bodies

If an individual was, immediately before the commencement date, registered with an approved broker body as a technical representative or a chief executive, the individual is to be regarded as—

- (a) having been granted a licence under section 64ZC; and
- (b) being so licensed from the commencement date until the expiry of the transitional period.

Subdivision 2—Decision of Removal from Register not yet Taken Effect immediately before Commencement Date

71. Individual whose name being removed from register of approved broker body

- (1) Despite section 70 of this Schedule, if—
 - (a) an individual was registered with an approved broker body as a technical representative or a chief executive before the commencement date;
 - (b) the approved broker body with which the individual was registered has, before the commencement date, made a decision that the individual's name be removed from the relevant register maintained by the body; and

- (c) the decision has not taken effect ~~immediately before on~~ the commencement date,

subject to section 73(1) of this Schedule, the individual is to be regarded as having been granted a licence under section 64ZC and as being so licensed from the commencement date until the ~~expiry of the date time~~ specified in subsection (2).

- (2) The ~~date time~~ specified for subsection (1) is—

- (a) if the individual does not appeal against the decision, the ~~date on which time~~ the decision takes effect; or

- (b) if the individual appeals against the decision and—

- (i) if the decision is reversed by the Tribunal on appeal, subject to section 73(1) of this Schedule, the ~~date on which expiry of~~ the transitional period ~~expires~~;

- (ii) if the decision is confirmed by the Tribunal on appeal, the ~~date on which time~~ the determination of the Tribunal takes effect; or

- (iii) if the appeal is withdrawn, the ~~date on which time~~ the appeal is withdrawn.

[45]

Subdivision 3—Supplementary Provisions

72. Appeals not disposed of on expiry of transitional period

In relation to section 71(1) and (2)(b) of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the individual is to be regarded as having been granted a licence under section 64ZC until the expiry of that date.

73. Appeals to Court of Appeal

- (1) In relation to section 71(1) and (2)(b)(i) of this Schedule, if—
- (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and
 - (b) the Court of Appeal reverses the determination, the licence regarded as having been granted under section 64ZC is to remain in force until the ~~expiry of the date on which time~~ the decision of the Court of Appeal takes effect.
- [45] (2) In relation to section 71(1) and (2)(b)(ii) of this Schedule, if—
- (a) the individual appeals to the Court of Appeal against the determination of the Tribunal; and
 - (b) the Court of Appeal reverses the determination, the individual is also to be regarded as having been granted a licence under section 64ZC from the ~~date on which time~~ the decision of the Court of Appeal takes effect until the expiry of the transitional period.

74. Effect of application for technical representative (broker) licence

If an individual who is regarded as having been granted a licence under section 64ZC makes an application for a technical representative (broker) licence under that section in the manner, and within the time, specified by the Authority, the licence regarded as having been granted under that section is to remain in force until the specified date.

75. Conditions imposed by approval broker body

A condition imposed by an approved broker body in relation to the registration of an individual as a technical representative or a chief executive that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to the approved broker body) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the licence that is regarded as having been granted under section 64ZC to the individual.

76. Requirements to comply with conditions

An individual who is regarded as having been granted a licence under section 64ZC must, during the period when the licence is in force, comply with any condition under sections 75 and 106 of this Schedule.

77. Application of provisions relating to licensed technical representative (broker)

A provision in this Ordinance relating to a licensed technical representative (broker) applies to an individual who is regarded under this Division as having been granted a licence under section 64ZC.

Division 7—Savings and Transitional Arrangements for Responsible Officers of Insurance Agencies**Subdivision 1—General Provision****78. Responsible officers of insurance agencies registered with IARB**

If—

- (a) an individual was, immediately before the commencement date, registered with IARB as a responsible officer of an insurance agency registered with IARB; and
- (b) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U,

the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved from the commencement date until the expiry of the transitional period.

Subdivision 2—Decision of Revocation not yet Taken Effect on Commencement Date

79. Application of section 80 of this Schedule

Section 80 of this Schedule applies if—

- (a) an individual was registered with IARB as a responsible officer of an insurance agency registered with IARB before the commencement date;
- (b) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U;
- (c) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (d) the decision has not taken effect on the commencement date; and
- (e) the individual does not appeal against the decision.

80. No appeal against decision been made

Despite section 78 of this Schedule, the individual is to be regarded as—

- (a) having been granted an approval under section 64ZE as a responsible officer of the insurance agency; and
- (b) being so approved from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect. [45]

81. Application of sections 82, 83 and 84 of this Schedule

Sections 82, 83 and 84 of this Schedule apply if—

- (a) an individual was registered with IARB as a responsible officer of an insurance agency registered with IARB before the commencement date;
- (b) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U;
- (c) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (d) the decision has not taken effect on the commencement date; and
- (e) the individual has appealed against the decision but the appeal is not finally disposed of before the commencement date or the individual appeals against the decision on or after the commencement date.

82. No application for stay of execution or application for stay of execution rejected

If the individual does not apply for a stay of execution of the decision or if the individual makes such an application but the application is rejected, then despite section 78 of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

(a) from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect; and

(b) ~~on appeal—~~

~~(i) if the decision is reversed by the Tribunal on appeal, subject to section 92(1) of this Schedule—from the date on which time the determination of the Tribunal takes effect until the expiry of the transitional period; or~~

~~(ii) if the decision is confirmed by the Tribunal, but the individual appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination—from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.~~

83. Stay of execution granted after decision takes effect

If the individual applies for a stay of execution of the decision after the decision takes effect and the application is granted, then despite section 78 of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

(a) from the commencement date until the ~~expiry of the date on which time~~ the decision takes effect; and

(b) on appeal—

(i) if the decision is reversed by the Tribunal, subject to section 92(1) of this Schedule—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the expiry of the transitional period;

(ii) if the decision is confirmed by the Tribunal—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or

(iii) if the appeal is withdrawn—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the appeal is withdrawn.

84. Stay of execution granted before decision takes effect

If the individual applies for a stay of execution of the decision before the decision takes effect and the application is granted, then despite section 78 of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

(a) if the decision is reversed by the Tribunal on appeal, subject to section 92(1) of this Schedule—

[45]

[46]

[45]

from the commencement date until the expiry of the transitional period;

- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the ~~expiry of the date on which time~~ the appeal is withdrawn.

Subdivision 3—Stay of Execution Granted before Commencement Date

85. Application of section 86 of this Schedule

Section 86 of this Schedule applies if—

[45]

- (a) an individual was registered with IARB as a responsible officer of an insurance agency registered with IARB before the commencement date;
- (b) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U;
- (c) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (d) the individual has appealed against the decision and applied for stay of execution of the decision and the application was granted before the commencement date; and
- (e) the appeal is not finally disposed of ~~on-before~~ the commencement date.

86. Stay of execution granted ~~before commencement date and appeal not disposed of on-before commencement date~~

Despite section 78 of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

- (a) if the decision is reversed by the Tribunal on appeal, subject to section 92(1) of this Schedule—from the commencement date until the expiry of the transitional period;
- (b) if the decision is confirmed by the Tribunal on appeal—from the commencement date until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or
- (c) if the appeal is withdrawn—from the commencement date until the ~~expiry of the date on which time~~ the appeal is withdrawn.

[45]

Subdivision 4—Decision of Revocation Taken Effect on or before Commencement Date

87. Application of sections 88 and 89 of this Schedule

Sections 88 and 89 of this Schedule apply if—

- (a) an individual was registered with IARB as a responsible officer of an insurance agency registered with IARB before the commencement date;
- (b) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U;

- (c) IARB has, before the commencement date, made a decision that the registration of the individual be revoked;
- (d) the decision has taken effect on or before the commencement date;
- (e) the individual appeals against the decision before, on or after the commencement date; and
- (f) (if the individual has appealed against the decision before the commencement date) the appeal is not finally disposed of ~~on~~before the commencement date.

[45]

88. No application for stay of execution or application for stay of execution rejected

~~If—~~

~~—(a) the individual does not apply for a stay of execution of the decision or the individual makes such an application but the application is rejected; and~~

~~—(b) the decision is reversed by the Tribunal on appeal, then despite section 78 of this Schedule and subject to section 92(1) of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.~~

If the individual does not apply for a stay of execution of the decision or the individual makes such an application but the application is rejected, then despite section 78 of this Schedule, the individual is to be regarded as having been

granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

(a) if the decision is reversed by the Tribunal on appeal, subject to section 92(1) of this Schedule— from the time the determination of the Tribunal takes effect until the expiry of the transitional period; or

[46]

(b) if the decision is confirmed by the Tribunal on appeal, but the individual appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination— from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.

89. Stay of execution granted after commencement date

If the individual applies for a stay of execution of the decision and the application is granted after the commencement date, then despite section 78 of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

(a) if the decision is reversed by the Tribunal on appeal, subject to section 92(1) of this Schedule— from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the expiry of the transitional period;

[45]

(b) if the decision is confirmed by the Tribunal on appeal— from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the determination of the Tribunal takes effect; or

- (c) if the appeal is withdrawn—from the ~~date on which time~~ the application for the stay of execution of the decision is granted until the ~~expiry of the date on which time~~ the appeal is withdrawn.

Subdivision 5—Application for Registration Rejected before Commencement Date

90. Applications for registration rejected

~~(1) If Subsection (2) applies if—~~

- (a) an individual applied to IARB for registration as a responsible officer of an insurance agency registered with IARB but IARB has, before the commencement date, made a decision that the application be rejected;
- (b) the individual appeals against the decision; and
- ~~(c) the decision is reversed by the Tribunal on appeal; and~~
- ~~(d)~~ (c) the insurance agency is regarded under section 5 of this Schedule as having been granted a licence under section 64U₂;

~~subject to section 92(1) of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved from the date on which the determination of the Tribunal takes effect until the expiry of the transitional period.~~

(2) The individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency and as being so approved—

(a) if the decision is reversed by the Tribunal on appeal, subject to section 92(1) of this Schedule— from the time the determination of the Tribunal takes effect until the expiry of the transitional period; or

(b) if the decision is confirmed by the Tribunal on appeal, but the individual appeals to the Court of Appeal against the determination of the Tribunal, and the Court of Appeal reverses the determination—from the time the decision of the Court of Appeal takes effect until the expiry of the transitional period.

[46]

Subdivision 6—Supplementary Provisions

91. Appeals not disposed of on expiry of transitional period

In relation to sections 83, 84, 86 and 89 of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the individual is to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency until the expiry of that date.

92. Appeals to Court of Appeal

- (1) In relation to sections 82(b)(~~i~~), 83(b)(i), 84(a), 86(a), 88(~~a~~), 89(a) and 90(~~2~~)(a) of this Schedule, if—
- (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and
- (b) the Court of Appeal reverses the determination, the approval regarded as having been granted under section 64ZE is to remain in force until the ~~expiry of the~~

[T]

~~date on which time~~ the decision of the Court of Appeal takes effect.

- (2) In relation to sections 83(b)(ii), 84(b), 86(b) and 89(b) of this Schedule, if—

(a) the individual appeals to the Court of Appeal against the determination of the Tribunal; and

(b) the Court of Appeal reverses the determination, the individual is also to be regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency from the ~~date on which time~~ the decision of the Court of Appeal takes effect until the expiry of the transitional period.

[45]

93. Effect of application for approval under section 64ZE

- (1) This section applies to an individual who is regarded as having been granted an approval under section 64ZE as a responsible officer of an insurance agency that is regarded as having been granted a licence under section 64U.
- (2) If the agency makes an application for the approval of the individual as a responsible officer of the agency under section 64ZE in the manner, and within the time, specified by the Authority, the approval regarded as having been granted under that section is to remain in force until the specified date.

94. Conditions imposed by IARB

A condition imposed by IARB in relation to the registration of an individual as a responsible officer of an insurance agency that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to IARB) is, on the commencement date, taken to be a

condition imposed by the Authority in relation to the approval that is regarded as having been granted under section 64ZE to the individual.

95. Requirements to comply with conditions

An individual who is regarded as having been granted an approval under section 64ZE as a responsible officer of the insurance agency must, during the period when the approval is in force, comply with any condition under sections 94 and 106 of this Schedule.

96. Application of provisions relating to responsible officers of licensed insurance agencies

A provision in this Ordinance relating to a responsible officer of a licensed insurance agency applies to an individual who is regarded under this Division as having been granted an approval under section 64ZE.

Division 8—Savings and Transitional Arrangements for Chief Executives Registered with Approved Broker Bodies

Subdivision 1—General Provision

97. Chief executives registered with approved broker bodies

If—

- (a) an individual was, immediately before the commencement date, registered with an approved broker body as a chief executive of a company that is a member of the body; and

- (b) the company is regarded under section 62 of this Schedule as having been granted a licence under section 64ZA,

the individual is to be regarded as having been granted an approval under section 64ZF as a responsible officer of the company and as being so approved from the commencement date until the expiry of the transitional period.

**Subdivision 2—Decision of Revocation not yet Taken
Effect immediately before Commencement Date**

98. Individual whose registration as chief executive being revoked

- (1) Despite section 97 of this Schedule, if—
- (a) an individual was registered with an approved broker body as a chief executive of a company that is a member of the body before the commencement date;
- (b) the company is regarded under section 62 of this Schedule as having been granted a licence under section 64ZA;
- (c) the approved broker body with which the individual was registered has, before the commencement date, made a decision that the individual's registration with the body as a chief executive be revoked; and
- (d) the decision has not taken effect ~~immediately before-on~~ the commencement date,

subject to section 100(1) of this Schedule, the individual is to be regarded as having been granted an approval under section 64ZF as a responsible officer of the company and as being so approved from the

[45]

commencement date until the ~~expiry of the date-time~~ specified in subsection (2).

- (2) The ~~date-time~~ specified for subsection (1) is— [45]
- (a) if the individual does not appeal against the decision, the ~~date-on-which-time~~ the decision takes effect; or
- (b) if the individual appeals against the decision and—
- (i) if the decision is reversed by the Tribunal on appeal, subject to section 100(1) of this Schedule, the ~~date-on-which-expiry of~~ the transitional period ~~expires~~;
- (ii) if the decision is confirmed by the Tribunal on appeal, the ~~date-on-which-time~~ the determination of the Tribunal takes effect; or
- (iii) if the appeal is withdrawn, the ~~date-on-which~~ ~~time~~ the appeal is withdrawn.

Subdivision 3—Supplementary Provisions

99. Appeals not disposed of on expiry of transitional period

In relation to section 98(1) and (2)(b) of this Schedule, if the appeal is not finally disposed of on the date on which the transitional period expires, the individual is to be regarded as having been granted an approval under section 64ZF as a responsible officer of the company until the expiry of that date.

100. Appeals to Court of Appeal

- (1) In relation to section 98(1) and (2)(b)(i) of this Schedule, if—

- (a) the Authority appeals to the Court of Appeal against the determination of the Tribunal; and
- (b) the Court of Appeal reverses the determination, the approval regarded as having been granted under section 64ZF is to remain in force until the ~~expiry of the date on which time~~ the decision of the Court of Appeal takes effect.

[45] (2) In relation to section 98(1) and (2)(b)(ii) of this Schedule, if—

- (a) the individual appeals to the Court of Appeal against the determination of the Tribunal; and
- (b) the Court of Appeal reverses the determination, the individual is also to be regarded as having been granted an approval under section 64ZF as a responsible officer of the company from the ~~date on which time~~ the decision of the Court of Appeal takes effect until the expiry of the transitional period.

101. Effect of application for approval under section 64ZF

- (1) This section applies to an individual who is regarded as having been granted an approval under section 64ZF as a responsible officer of a company that is regarded as having been granted a licence under section 64ZA.
- (2) If the company makes an application for the approval of the individual as a responsible officer of the company under section 64ZF in the manner, and within the time, specified by the Authority, the approval regarded as having been granted under that section is to remain in force until the specified date.

102. Conditions imposed by approved broker body

A condition imposed by an approved broker body in relation to the registration of an individual as a chief executive that was in force immediately before the commencement date (except a condition relating to the payment of fees or charges to the approved broker body) is, on the commencement date, taken to be a condition imposed by the Authority in relation to the approval that is regarded as having been granted under section 64ZF to the individual.

103. Requirements to comply with conditions

An individual who is regarded as having been granted an approval under section 64ZF as a responsible officer of the company must, during the period when the approval is in force, comply with any condition under sections 102 and 106 of this Schedule.

104. Application of provisions relating to responsible officers of licensed insurance broker companies

A provision in this Ordinance relating to a responsible officer of a licensed insurance broker company applies to an individual who is regarded under this Division as having been granted an approval under section 64ZF.

Division 9—Miscellaneous

105. Authority may revoke or suspend licences and approval regarded as granted

- (1) If the Authority has reasonable ground to believe that any application information was, at the time when it was provided by the person, wrong, incomplete, false or misleading in a material respect, the Authority may, at any time during the transitional period, by notice in

- | | | |
|----|----------------------------|----------------------------|
| 1. | IARB | An insurance agency |
| 2. | IARB | An individual agent |
| 3. | IARB | A technical representative |
| 4. | IARB | A responsible officer |
| 5. | Approved
broker
body | An insurance broker |
| 6. | Approved
broker
body | A technical representative |
| 7. | Approved
broker
body | A chief executive |

106. Licences and approval regarded as granted are subject to conditions imposed by Authority

- (1) A licence or an approval that is regarded as having been granted to a person under Division 2, 3, 4, 5, 6, 7 or 8 of this Part is subject to any condition that the Authority imposes.
- (2) The Authority may, at any time during the transitional period, by notice in writing, amend or revoke any condition imposed, or impose new conditions.
- (3) If the Authority by notice in writing amends or revokes a condition or imposes a new condition under subsection (2), the amendment, revocation or imposition takes effect at the time the notice is served on the person or at the time specified in the notice, whichever is the later.
- (4) The Authority must not impose a condition under subsection (1), or amend such a condition under

subsection (2), without giving the person an opportunity to make representations as to why the condition should not be imposed or amended.

- (5) In this section, a reference to an opportunity to make representations is a reference to an opportunity to make written representations or oral representations.

Part 5

Complaints that have been Lodged or could have been Lodged—Contraventions of Applicable Rules before Commencement Date

107. Interpretation of Part 5 of this Schedule

In this Part—

self-regulatory body (自我規管團體)—

- (a) in relation to ~~a complaint that has been lodged, or could have been lodged, with IARB before the commencement date~~ an alleged contravention of a requirement under a rule within the meaning of section 123 of this Schedule—means IARB; ~~and or~~ [48]
- (b) in relation to ~~a complaint that has been lodged, or could have been lodged, with an approved broker body before the commencement date~~ an alleged contravention of a requirement under a rule within the meaning of section 124 of this Schedule—means ~~the an approved broker~~ body;

specified person (指明人士) means—

- (a) an insurance agency registered with IARB;
- (b) an individual agent registered with IARB;

- (c) a technical representative registered with IARB;
- (d) a responsible officer registered with IARB;
- (e) an insurance broker registered with an approved broker body;
- (f) a technical representative registered with an approved broker body; or
- (g) a chief executive registered with an approved broker body.

~~108. Complaints not yet disposed of by self-regulatory bodies~~

~~(1) This section applies if a complaint in relation to a specified person has been lodged with a self-regulatory body but has not been disposed of on the commencement date.~~

~~(2) On or after the commencement date—~~

[48]

- ~~(a) the Authority is to handle the complaint as if it was a complaint lodged with the Authority under section 109 of this Schedule; and~~
- ~~(b) the self-regulatory body is to cease to have power to handle the complaint.~~

108. Alleged contraventions before commencement date

(1) This section applies if—

- (a) there is a case of alleged contravention by a specified person of any requirement under an applicable rule that occurred before the commencement date; but
- (b) the case has not been disposed of before the commencement date.

(2) On or after the commencement date, the case may only be handled by the Authority.

(3) The case must be handled by the Authority by reference to the applicable rule that would have applied to the specified person and the matter in question had the case been handled by the self-regulatory body concerned.

(4) The Authority may take one or more of the following actions—

(a) direct that an investigation under section 64ZZH be conducted;

(b) dismiss the case;

(c) commence disciplinary proceedings;

(d) if appropriate, impose a disciplinary sanction on the specified person that could have been imposed by the self-regulatory body concerned had the case been handled by the body.

[48]

~~109. Complaints not lodged with self-regulatory bodies before commencement date~~

~~(1) This section applies if—~~

~~(a) a complaint concerns an act or omission that—~~

~~(i) relates to a specified person; and~~

~~(ii) occurred before the commencement date;~~

~~(b) the complaint could have been lodged with a self-regulatory body under the applicable rule that would have applied to the specified person and the matter in question but for this section; and~~

~~(c) no complaint has been lodged in relation to the specified person with a self-regulatory body~~

~~immediately before the commencement date in relation to the matter in question.~~

~~(2) On or after the commencement date, the complaint may only be lodged with the Authority.~~

~~**110. Determination of complaints under sections 108 and 109 of this Schedule**~~

~~(1) A complaint in relation to a specified person mentioned in section 108 or 109 of this Schedule must be handled by the Authority by reference to the applicable rule that would have applied to the specified person and the matter in question had the complaint been lodged with the self-regulatory body concerned.~~

~~(2) The Authority may —~~

~~(a) direct that an investigation under section 64ZZH be conducted;~~

~~(b) dismiss the complaint; or~~

~~(c) take any other action that is permitted under the applicable rule.~~

~~(3) The Authority may take a disciplinary action, or impose a penalty or sanction, that could have been made by the self-regulatory body concerned had the complaint been dealt with by the body.~~

Part 6

Investigations that were not Completed before Commencement Date

~~**111. Interpretation of Part 6 of this Schedule**~~

~~In this Part —~~

[48]

~~**self-regulatory body** (自我規管團體) —~~

~~(a) in relation to an investigation that was conducted by IARB before the commencement date means IARB; and~~

~~(b) in relation to an investigation that was conducted by an approved broker body before the commencement date means the body;~~

~~**specified person** (指明人士) means —~~

~~(a) an insurance agency registered with IARB;~~

~~(b) an individual agent registered with IARB;~~

~~(c) a technical representative registered with IARB;~~

~~(d) a responsible officer registered with IARB;~~

~~(e) an insurance broker registered with an approved broker body;~~

~~(f) a technical representative registered with an approved broker body; or~~

~~(g) a chief executive registered with an approved broker body.~~

~~**112. Investigations not yet completed by self-regulatory bodies**~~

~~(1) This section applies if an investigation in relation to a specified person has been conducted by a self-regulatory body but has not been completed on the commencement date.~~

~~(2) On or after the commencement date —~~

~~(a) the Authority is to conduct the investigation under section 64ZZH; and~~

~~(b) the self-regulatory body is to cease to have power to conduct the investigation.~~

[48]

~~113. Investigations under section 112 of this Schedule~~

~~After the investigation is completed, the Authority may take a disciplinary action, or impose a penalty or sanction, that could have been made by the self-regulatory body concerned had the investigation been conducted by the body.~~

[48]

Part 7**Appeals that have been Made or could have been Made before Commencement Date****114. Interpretation of Part 7 of this Schedule**

In this Part—

self-regulatory body (自我規管團體)—

- (a) in relation to an appeal that has been made, or could have been made, to the Appeals Tribunal established by HKFI before the commencement date—means the Appeals Tribunal; ~~and~~ or
- (b) in relation to an appeal that has been made, or could have been made, to an approved broker body before the commencement date—means the body;

specified person (指明人士) means—

- (a) an insurance agency registered with IARB;
- (b) an individual agent registered with IARB;
- (c) a technical representative registered with IARB;
- (d) a responsible officer registered with IARB;
- (e) an insurance broker registered with an approved broker body;
- (f) a technical representative registered with an approved broker body; or

[T]

- (g) a chief executive registered with an approved broker body.

115. Appeals not yet determined by self-regulatory bodies

- (1) This section applies if an appeal in relation to a specified person (including application for leave to appeal)—

(a) has been made to a self-regulatory body; but

(b) has not been finally disposed of ~~on~~ before the commencement date.

[45]

- (2) On or after the commencement date—

- (a) the Tribunal is to handle the appeal as if it was an appeal made to the Tribunal under section 116 of this Schedule; and
- (b) the self-regulatory body is to cease to have power to handle the appeal.

116. Appeals not made to self-regulatory bodies before commencement date

- (1) This section applies if—

- (a) a decision was made by a self-regulatory body before the commencement date in relation to a specified person;
- (b) an appeal against the decision could have been made to a self-regulatory body under the applicable rule that would have applied to the specified person and the matter in question but for this section;
- (c) the period within which ~~the~~ an appeal against the decision could be made has not expired under the applicable rule; and

[T]

(d) no appeal has been made to a self-regulatory body ~~immediately~~ before the commencement date in relation to the matter in question.

(2) On or after the commencement date, ~~the an~~ appeal against the decision may only be made to the Tribunal.

[T]

117. Determination of appeals under sections 115 and 116 of this Schedule

(1) An appeal mentioned in section 115 or 116 of this Schedule must be determined by the Tribunal by reference to the applicable rule that would have applied to the specified person and the matter in question had the application for the appeal been made to the self-regulatory body concerned.

(2) Part XII applies to an appeal mentioned in section 115 or 116 of this Schedule as if—

[T]

(a) a reference to a review in that Part was a reference to such an appeal ~~mentioned in section 115 or 116 of this Schedule~~; and

(b) a reference to a party to ~~the a~~ review included the Authority.

(3) However, the Tribunal must not determine the appeal by remitting the matter in question to the self-regulatory body.

Part 8

Effect of Disciplinary Sanctions Imposed before Commencement Date

118. Interpretation of Part 8 of this Schedule

In this Part—

self-regulatory body (自我規管團體)—

(a) in relation to a sanction imposed on a person before the commencement date by IARB—means IARB; ~~and or~~ [T]

(b) in relation to a sanction imposed on a person before the commencement date by an approved broker body—means the body.

119. Effect of disciplinary sanctions imposed by self-regulatory bodies

(1) If a self-regulatory body imposed a disciplinary sanction on a person before the commencement date—

(a) on the commencement date, the sanction is to be regarded as a disciplinary action taken by the Authority under section 80; and

(b) subject to sections 115 and 116 of this Schedule, the sanction continues to take effect until the expiry of the period, or the occurrence of the event, specified by the self-regulatory body.

(2) If a self-regulatory body imposed a fine on a person before the commencement date and the fine or part of the fine was not paid, that fine or that part of it may be recovered by the self-regulatory body as a civil debt on or after the commencement date.

Part 9**Records and Assistance Required from Certain Bodies****120. IARB and approved broker bodies to provide records and assistance to Authority in relation to licence and approval**

- (1) IARB and every approved broker body must provide the Authority with records and assistance that the Authority requires for—
 - (a) considering whether a person may be regarded as having been granted a licence or approval under Division 2, 3, 4, 5, 6, 7 or 8 of Part 4 of this Schedule;
 - (b) considering whether a person may be granted a licence or approval under section 64U, 64W, 64Y, 64ZA, 64ZC, 64ZE or 64ZF; and
 - (c) compiling a complete and accurate register of every such persons.
- (2) The records referred to in subsection (1) do not include a notification of change of particulars, or of the appointment, of any of the following persons that has not been processed or validly registered with IARB or the approved broker body by a date specified by the Authority—
 - (a) an insurance agency registered with IARB;
 - (b) an individual agent registered with IARB;
 - (c) a technical representative registered with IARB;
 - (d) a responsible officer registered with IARB;

- (e) an insurance broker registered with an approved broker body;
 - (f) a technical representative registered with an approved broker body;
 - (g) a chief executive registered with an approved broker body.
- (3) The records and assistance must be provided to the Authority in the manner, and within the time, specified by the Authority.

121. Self-regulatory bodies to provide records and assistance to Authority in relation to ~~complaints~~cases of alleged ~~contravention~~, appeals and disciplinary sanctions

- (1) A self-regulatory body must provide the Authority with records and assistance that the Authority requires for compiling a complete and accurate record of— [48]
 - (a) the ~~complaints that have been lodged with cases of~~ alleged contravention of the requirements under the applicable rules that have been handled by the body;
 - (b) the appeals (including applications for leave to appeal) that have been made to the body; and
 - (c) the disciplinary sanctions that have been imposed by the body.
- (2) The records and assistance must be provided to the Authority in the manner, and within the time, specified by the Authority.
- (3) In this section—
self-regulatory body (自我規管團體)—

[48]

- (a) in relation to a ~~complaint lodged with case handled by~~ IARB or a sanction imposed by IARB—means IARB;
- (b) in relation to an appeal made to the Appeals Tribunal established by HKFI—means the Appeals Tribunal; ~~and/or~~
- (c) in relation to a ~~complaint lodged with case handled by~~ an approved broker body, an appeal made to an approved broker body or a sanction imposed by an approved broker body—means the body.

122. Records to be provided under sections 120 and 121 of this Schedule

- (1) In relation to a record provided by a person to the Authority under section 120 or 121 of this Schedule, all the rights and obligations of the person subsisting immediately before the provision are taken to be transferred to the Authority on the provision of the record.
- (2) The Authority must ensure that there are in place proper procedures and systems to safeguard against unauthorized access to, or unauthorized use of, the records provided under sections 120 and 121 of this Schedule.
- (3) In relation to personal data provided under sections 120 and 121 of this Schedule, the Personal Data (Privacy) Ordinance (Cap. 486) applies as if the data had been received by the Authority rather than the person concerned.
- (4) In relation to personal data provided under sections 120 and 121 of this Schedule, the Authority must ensure that the personal data is used, disclosed and retained for the

purposes set out in those sections and the performance of its functions under this Ordinance.

- (5) The provision of a record by a person to the Authority under section 120 or 121 of this Schedule does not amount to—
 - (a) a breach of duty of confidentiality to which the person is subject immediately before the provision; or
 - (b) a contravention by the person or the Authority of the Personal Data (Privacy) Ordinance (Cap. 486).

123. HKFI to provide rules to Authority

- (1) HKFI must provide the Authority with a complete set of rules that have been from time to time issued or approved by HKFI, or issued by IARB under the authority of HKFI, in relation to a person specified in subsection (2).
- (2) The person specified for subsection (1) is—
 - (a) an insurance agency registered with IARB;
 - (b) an individual agent registered with IARB;
 - (c) a technical representative registered with IARB; or
 - (d) a responsible officer registered with IARB.
- (3) The rules must be provided to the Authority in the manner, and within the time, specified by the Authority.
- (4) In this section—

rule (規則) includes—

 - (a) the code of practice for the administration of insurance agents issued by HKFI under section 67 of the pre-amended Ordinance;

- (b) on being satisfied that the failure was without reasonable excuse, may punish the person, and any other person knowingly involved in the failure, in the same manner as if the person and that other person had been guilty of contempt of court.
- (3) An originating summons under subsection (1) is to be in Form No. 10 in Appendix A to the Rules of the High Court (Cap. 4 sub. leg. A).”
-

Part 3

Related and Consequential Amendments

Division 1—Amendment to Specification of Public Offices

Notice (Cap. 1 sub. leg. C)

[T]

95. Schedule amended

The Schedule—

Repeal the entry relating to the Insurance Authority.

Division 2—Amendment to Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)

96. Section 265 amended (preferential payments)

Section 265(6), definition of *general business*—

Repeal

“Insurance Companies Ordinance”

Substitute

“Insurance Ordinance”.

Division 3—Amendment to Legal Aid Ordinance (Cap. 91)

97. Schedule 3 amended (proceedings for which legal aid may be given under section 5A)

Schedule 3, Part 1, paragraph 6(a)—

Repeal

122. Section 42 amended (Authority may disclose certain information despite section 41)

Section 42(1)(d), Chinese text—

Repeal

“保險業監督”

Substitute

“保險業監管局”.

123. Section 42AA amended (~~Authority or~~ specified entity may disclose information obtained under Part 4A despite section 41)

Section 42AA(5)(a), Chinese text—

Repeal

“保險業監督”

Substitute

“保險業監管局”.

124. Section 42B amended (immunity)

Section 42B(3)(a), Chinese text—

Repeal

“保險業監督”

Substitute

“保險業監管局”.

Division 21—Amendments to Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A)**125. Section 2 amended (interpretation)**(1) Section 2, definition of *authorized insurer*—**Repeal**

“Insurance Companies Ordinance”

Substitute

“Insurance Ordinance”.

(2) Section 2—

Repeal the definition of *Insurance Authority***Substitute**“*Insurance Authority* (保險業監管局) means the Insurance Authority established under section 4AAA of the Insurance Ordinance (Cap. 41);”.**126. Section 7 amended (what is a substantial financial institution for the purposes of this Regulation?)**

Section 7(3)(b), Chinese text—

Repeal

“保險業監督”

Substitute

“保險業監管局”.

127. Section 8 amended (what is adequate insurance for the purposes of registered schemes?)

(1) Section 8(2)(a)—

Repeal

“Insurance Companies Ordinance”

Substitute

“Insurance Ordinance”.

(2) Section 8(3)(b), Chinese text—

Repeal

“保險業監督”

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
61.	Section 38E(7), Chinese text	保險人清盤	該保險人清盤
[T] 62.	Section 38E(8)	an insurer	an authorized insurer
63.	Section 42, heading	insurer	authorized insurer
64.	Section 42(1)	an insurer	an authorized insurer
65.	Section 43, heading	insurer	authorized insurer
66.	Section 43	an insurer	an authorized insurer
67.	Section 43, Chinese text	保險人即	該保險人即
68.	Section 44(1), (2), (3) and (4)	an insurer	an authorized insurer
69.	Section 45, heading	insurer	authorized insurer
70.	Section 45(1)	an insurer	an authorized insurer
71.	Section 45(2)	an insurer	an authorized insurer

	Column 1	Column 2	Column 3
	Provision	Repeal	Substitution
72.	Section 45(2)(a) and (b), Chinese text	保險人 (wherever appearing)	該保險人
73.	Section 45(4A)	an insurer	an authorized insurer
74.	Section 45(4B)	an insurer	an authorized insurer
75.	Section 45(5)	an insurer	an authorized insurer
76.	Section 46, heading	insurer	authorized insurer
77.	Section 46(1)	an insurer	an authorized insurer
78.	Section 46(2)	existing insurer	existing authorized insurer
79.	Section 46(5) and (6), Chinese text	保險人	有關保險人
80.	Section 46(7), Chinese text	(a) 保險人的 (b) 保險人作出	有關保險人的 該保險人作出
81.	Section 47, heading	insurers	authorized insurers

Insurance Companies (Amendment) Bill 2014
List of Proposed Committee Stage Amendments

T: Minor textual amendments

No.	Clause	Page	Section	Purpose
1	5	4	2(1)	Technical amendments to clarify that the definition of “controller” under Section 9 applies to (i) a company making an application for authorization to carry on insurance business; or (ii) an authorized insurer in the Insurance Companies Ordinance (“ICO”) (Cap. 41) (as amended by the Bill) except as otherwise provided.
	18A	31-32	9	
	23	37-38	13A(12)	Textual amendments to the definition of “controller” following amendments to section 9.
	26	50	13B(1A)	Textual amendments following amendments to section 9.
	51	90	38A(1)(b)	Technical amendments following amendments to new section 13A.
	52	90	38B(2)(a), (3)(a)(ii)	Technical amendments following amendments to new section 13A.
	84	225	79(1)	In response to the Assistant Legal Adviser (“ALA”)’s suggestion, to clarify that the term “controller” in Part XI has the same meaning as in Part X. (cf. “The Administration’s Response to Questions raised by ALA” (LC paper No: CB(1)858/14-15(04)))
The marked-up version of this proposed amendment and related amendments is at <u>Appendix</u> .				
2	5	8	2	Technical amendments to transpose definition of “key person in control functions”.
	29	56	14(9)	
3	23	35	13A(3)(c)	In response to the suggestion of the Privacy Commissioner for Personal Data (“PCPD”), to stipulate that the information to be provided by insurers should be “reasonably” required by the independent Insurance Authority (“IIA”).
	25	40	13AC(3)(c)	
	25	42	13AE(3)(c)	
	71	184	64ZZ(1)	
4	23	37	13A(11)	In response to the suggestion of a Member of the Bills Committee to align penalties for

No.	Clause	Page	Section	Purpose
	25	41	13AC(11)	contravention of the same offence by corporate licensees and individuals respectively. (cf. “The Administration’s Response to Follow-up Actions Arising from the Discussion at the Meeting on 9 February 2015” (LC paper No: CB(1)593/14-15(02)))
	25	44	13AE(11)	
5	25	44-47	13AE(12), (13)	<ul style="list-style-type: none"> In line with requirements stipulated under the Insurance Core Principle 8 of the International Association of Insurance Supervisors, to expand the types of control function (in addition to intermediary management) to cover risk management function, financial control function, compliance function, internal audit function and actuarial function. (cf. “Enhancement of Existing Regulatory Powers in respect of Insurers (Amendments to Parts II to VII)” (LC paper No: CB(1)1817/13-14(01))) To clarify that in addition to the person who performs a control function, a key person in control function includes an individual responsible for the performance of a control function.
6	31	59-61	15	<p>[<u>Background of the relevant provisions:</u> The existing section 15 under the ICO stipulates the qualification requirements of auditors and actuaries appointed by an authorized insurer and an authorized insurer which carries on long term business in Hong Kong respectively. The Bill provides that the appointment of actuary in the latter case should be subject to IIA’s approval.]</p> <p>To stipulate the procedural requirements in relation to the appointment of an actuary of a Hong Kong incorporated insurer carrying on long term business, such that the requirements are tally with those regarding the appointment of controllers i.e. –</p> <ul style="list-style-type: none"> To provide for procedural requirements for rejecting application, or imposing / amending conditions for the appointment of such actuary under s.15(3) (similar to s.13AG) To provide the applicant with a right to make representations in relation to the above decisions of IIA. To add offence provisions for – <ul style="list-style-type: none"> ➤ contravention of prior approval requirement under s.15 (3A) or (3EA) (similar to s.13A(11)); and
	32	62	15AB	
	32	63	15AC	

No.	Clause	Page	Section	Purpose
				➤ providing false information in relation to application for approval (similar to s.13AH).
7	34	65-66	15B(1A), (5A)	To empower IIA to object to the appointment of an actuary by an overseas incorporated insurer carrying on long term business.
8	52A	91	38D	Technical amendments. Appeals would be handled by the Insurance Appeals Tribunal (“IAT”) under the new regime.
9	52B	91	38E	Technical amendments as the appeal mechanism will be stipulated separately in the new Part XII.
9A	55	93	41B(1)	Technical amendments to align the wording with new section 64ZZF(1) (i.e. the similar provision on IIA’s inspection powers in relation to insurance intermediaries).
10	55	95	41B(8)	Technical amendments to clarify that the inspector “must, if so requested”, produce a copy of the appointment to the person for inspection as soon as practicable. (cf. “The Administration’s Response to Follow-up Actions Arising from the Discussion at the Meeting on 9 February 2015” (LC paper No: CB(1)593/14-15(02)))
	71	194	64ZZF(8)	
11	55	111	41P(5), (6)	[<u>Background of the relevant provisions:</u> The new section 41P provides for the powers of IIA to exercise disciplinary actions in respect of authorized insurers if, among other things, the insurer is/was guilty of misconduct.] To clarify that any contravention, act or omission that occurred before the commencement of the regulatory regime shall not be considered as misconduct under the regime.
12	55	112	41Q(4)	In response to the suggestion of the trade, to clarify that a reference to “an opportunity of being heard” is a reference to an opportunity to “make written or oral representations”. (cf. “The Administration’s Response to Outstanding Issues Arising from the Discussions at Previous Meetings and Raised by the Industry” (LC paper No: CB(1)858/14-15(03)))
	84	233	81(5)	
13	55	113	41S	In response to ALA’s comments, to clarify that the provision refers to “a power that the Authority may exercise in respect of the person <u>under section 41P</u> ”.

No.	Clause	Page	Section	Purpose
				(cf. “The Administration’s Response to Questions raised by ALA” (LC paper No: CB(1)858/14-15(04)))
14	62	119-120	50H	Technical amendments. To add a provision clarifying the applicability of various provisions to Lloyd’s.
15	64	123	53A(2)	Technical amendments. To clarify that information received in relation to the approval of directors, key persons in control functions, auditors and actuaries shall be subject to the requirements on secrecy under section 53A(2).
16	71	135	64F	To transpose the definition of “agency agreement” from section 68A as the term is also used in section 68.
	74	214	68A	
17	71	136	64F	To clarify that a “controller” in relation to a company can include a legal person as well as a natural person.
18	71	141	64J	To better reflect our policy intent and to avoid over-regulation. To provide that the restrictions on personnel apply to a person who “manages or controls any matter relating to a regulated activity” of another insurance broker company or insurance agency as appropriate. (cf. “The Administration’s Response to Outstanding Issues Arising from the Discussions at Previous Meetings and Raised by the Industry” (LC paper No: CB(1)858/14-15(03)))
	71	142	64K	
19	71	149	64P	In response to suggestions from a Member and the trade, remove reporting requirement for non-essential information. (cf. “The Administration’s Response to Members’ Requests and Questions Raised at the Meeting on 20 October 2014” (LC paper No: CB(1)186/14-15(02)))
20	71	149-150	64Q	In response to suggestions from the trade, to shorten the timeframe to give prior notification to IIA of intended appointment.
21	71	176	64ZS	Technical amendments to clarify that the provisions are subject to new section 64N which specifies that a policy holder has the option to void a contract of insurance if it is entered into by an insurer through another person who is not a licensed insurance agency or a
	84	236	86	

No.	Clause	Page	Section	Purpose
				licensed individual insurance agent appointed by the insurer or a licensed insurance broker company.
22	71	194	64ZZF(10)	In response to the suggestion of Members, to clarify that for the purpose of inspection in relation to insurance intermediaries, business premises does not include any domestic premises.
23	73	210-213	68	To reflect developments in the law of agency by making it clear that an insurer is not liable for the act of an insurance agent if (i) the act is not within the scope of the insurance agent's authority; and (ii) that the insurance agent has disclosed that fact to the client before the client relied on the act. (cf. "The Administration's Response to Outstanding Issues Arising from the Discussions at Previous Meetings and Raised by the Industry" (LC paper No: CB(1)858/14-15(03)))
24	78	217-218	73(1)	To specify that licensed insurance broker companies should submit their audited financial statements within 6 months after the relevant financial year end.
25	83	222	78	Technical amendments. To remove the reference to Lloyd's as we have proposed amendments to clarify the applicability of various provisions to Lloyd's (Section 50E added by Clause 61).
26	83A	223-224	78A	To allow IIA to exempt temporarily a person from provisions of Part X (i.e. in relation to the licensing of insurance intermediaries) to avoid technical breaches of the licensing requirement.
27	84	234	83(1)(a)	Technical amendments similar to item 13 above (amendment to new section 41S).
28	84	239	89(2), (3)	To clarify that a conduct requirement under new section 89(1) does not by itself render the intermediary or appointing insurer liable to any judicial proceedings. (cf. "The Administration's Response to Outstanding Issues Arising from the Discussions at Previous Meetings and Raised by the Industry" (LC paper No: CB(1)858/14-15(03)))
29	84	243	92(2)(k)	[Background of the relevant provisions: New section 92 provides that IIA may make rules

No.	Clause	Page	Section	Purpose
				<p>requiring licensed insurance intermediaries to comply with the practices and standards relating to their conduct. Subsection 92(2) sets out certain areas on which IIA may make such rules.]</p> <p>To clarify that IIA may specify the circumstances and conditions under which a licensed insurance intermediary may receive any property or services from another licensed insurance intermediary in consideration for referral of business.</p>
30	84	245	94	To transpose the definition of “parties” from Schedule 10 as the term is also used in section 100(1A)
	94	326	1 of Schedule 10	
31	84	250	100(1A)	To allow written submissions to IAT. (cf. “The Administration’s Response to Outstanding Issues Arising from the Discussions at Previous Meetings and Raised by the Industry” (LC paper No: CB(1)858/14-15(03)))
32	84	262	118(2)(c)	To remove reference to Lloyd’s following the addition of new section 50H.
33	84	263	118(2)(da)	To clarify reinsurance brokers without presence in Hong Kong to whom section 78(3) applies are exempted.
34	84	268-269	121(2A), (2B)	<p>To exempt the following employees from the licensing regime for insurance intermediaries –</p> <ul style="list-style-type: none"> (a) employees of reinsurers; (b) employees of captive insurers; and (c) employees of insurers who carry on regulated activities incidental to the performance of their technical functions of underwriting and claims management. <p>(cf. “The Administration’s Response to Outstanding Issues Arising from the Discussions at Previous Meetings and Raised by the Industry” (LC paper No: CB(1)858/14-15(03)))</p>
35	84	270-271	122(2), (3), (4)	To (i) clarify that the term “controller” is within the meaning of the relevant provisions; and (ii) amend the coverage of the personnel who would be held liable for an offence committed by a body corporate or partner (as the case may be) due to his consent, connivance, negligence and omission to persons with statutory duties under the Bill.

No.	Clause	Page	Section	Purpose
				(cf. “The Administration’s Response to Outstanding Issues Arising from the Discussions at Previous Meetings and Raised by the Industry” (LC paper No: CB(1)858/14-15(03)))
36	84	272-273	124(3)	To remove the provisions that IIA may use lay prosecutors for prosecuting minor offences in its own name. (cf. “The Administration’s Response to Follow-up Actions Arising from the Discussion at the Meeting on 20 April 2015” (LC paper No: CB(1)824/14-15(05)))
37	84	284-285	132(1), (2)	To specify that the levy would be payable by policy holders and to further elaborate on the powers of the Chief Executive in Council in specifying the levy. (cf. “The Administration’s Response to Follow-up Actions Arising from the Discussion at the Meeting on 7 May 2015” (LC paper No: CB(1)858/14-15(02)))
38	86	296-297	5 of Schedule 1B	To require members of IIA to disclose all interests that appear to raise a conflict with the proper performance of IIA member’s duties. (cf. “The Administration’s Response to Follow-up Actions Arising from the Discussion at the Meeting on 7 May 2015” (LC paper No: CB(1)858/14-15(02)))
39	94	320	Items 14A, 14B of Part 1, Schedule 9	Technical amendments to include certain decisions of IIA under the existing ICO as specified decisions (which are subject to appeal) as appropriate.
40	94	321	Item 20A of Part 1, Schedule 9	
41	94	324-325	Items 16, 17 of Part 2, Schedule 9	Technical amendments following merger of Part 5 and Part 6 of new Schedule 11.
42	94	329	4A of Schedule 10	To provide that in case there is a change in the person who is acting as the chairperson or a member of IAT when a review is in progress, the hearing may continue if there is consent from both parties to the review, and the hearing should begin anew in the absence of such consent. (cf. “The Administration’s Response to Follow-up Actions Arising from the Discussion at the Meetings on 10 April and 14 April 2015” (LC paper No: CB(1)824/14-15(04)))
43	94	339-340	3(1), (5)(b) of Schedule 11	To provide that (i) the transfer of records must be completed on or before the commencement date; and (ii) the PCPD may, on and after “the date on which the data is

No.	Clause	Page	Section	Purpose
				transferred”, exercise in relation to IIA any power under the Personal Data (Privacy) Ordinance (Cap. 486). (cf: “The Administration’s Response to Follow-up Actions Arising from the Discussion at the Meeting on 7 May 2015” (LC paper No: CB(1)858/14-15(02)) / “The Administration’s Response to Questions Raised by the ALA” (LC paper No: CB(1)858/14-15(05)))
44	94	340-342	3A of Schedule 11	To provide for the treatment of appeals to the Financial Secretary (“FS”) under the Ordinance before the commencement date as follows – (a) cases which have been made to FS but have not been disposed of before the commencement date should be handled by IAT after the commencement date (b) regarding a decision of IA before the commencement date, if the applicant lodges an appeal on or after the commencement date, such appeal should be made to IAT.
		342	3B of Schedule 11	
		342-343	3C of Schedule 11	
		343-344	3D of Schedule 11	
45	94	345-346	7 of Schedule 11	Technical amendments to – (a) clarify that a pre-existing self-regulatory organization (“SRO”) registrant should be deemed to be licensed until the “time” when the decision of SRO’s to revoke the registration takes effect. Otherwise, there will be uncertainty as to when the deemed licence should discontinue; and (b) replace “on the commencement date” with “before the commencement date” where appropriate.
		346-347	9(a), (b)(i) of Schedule 11	
		347-348	10(a), (b) of Schedule 11	
		348	11(b), (c) of Schedule 11	
		349	12(d) of Schedule 11	
		349	13(b), (c) of Schedule 11	
		350	14(e) of Schedule 11	
		351-352	16 of Schedule 11	
		353-354	19(1)(b), (2)(b) of Schedule 11	
		356	26(b) of Schedule 11	
		358	29 of Schedule 11	
		359	30(b), (c) of Schedule 11	
		359	31(d) of Schedule 11	
		359-360	32(b), (c) of Schedule 11	
		360	33(e) of Schedule 11	
362	35 of Schedule 11			
364	38 of Schedule 11			

No.	Clause	Page	Section	Purpose
		367	45(b) of Schedule 11	
		368-369	48 of Schedule 11	
		369-370	49(b), (c) of Schedule 11	
		370	50(d) of Schedule 11	
		370-371	51(b), (c) of Schedule 11	
		371	52(e) of Schedule 11	
		373	54 of Schedule 11	
		375	57 of Schedule 11	
		377-378	63 of Schedule 11	
		378-379	65 of Schedule 11	
		382	71 of Schedule 11	
		383	73 of Schedule 11	
		386	80(b) of Schedule 11	
		388	83 of Schedule 11	
		389	84(b), (c) of Schedule 11	
		389	85(e) of Schedule 11	
		390	86(b), (c) of Schedule 11	
		391	87(f) of Schedule 11	
		392-393	89 of Schedule 11	
		394-395	92 of Schedule 11	
		397-398	98 of Schedule 11	
		399	100 of Schedule 11	
		410	115(1) of Schedule 11	
46	94	347	9(b)(ii) of Schedule 11	Technical amendments to provide for the scenario in which the pre-existing SRO registrant appeals against IAT's decision to the Court of Appeal.
		350-351	15 of Schedule 11	
		352-353	17 of Schedule 11	
		357	28(b)(ii) of Schedule 11	
		361	34 of Schedule 11	
		362-363	36 of Schedule 11	
		368	47(b)(ii) of Schedule 11	
		371-372	53 of Schedule 11	
		373-374	55 of Schedule 11	

No.	Clause	Page	Section	Purpose
		387	82(b)(ii) of Schedule 11	
		391-392	88 of Schedule 11	
		393-394	90 of Schedule 11	
47	94	380	69 of Schedule 11	To provide that deemed licensed insurance broker companies which have applied to respective SROs for de-registration before the commencement date – (a) are regarded as having complied with new section 64T (i.e. licensed insurance broker companies are required to inform IIA of the intent to cease business 3 months in advance); and (b) need to submit necessary documents to IIA within 6 months after the commencement date.
		380	69A of Schedule 11	
48	94	404	107 of Schedule 11	Technical amendments to merge Part 5 and Part 6 of new Schedule 11.
		405-406	108 of Schedule 11	
		406-409	109-113 of Schedule 11	
		414-415	121 of Schedule 11	Textual amendments following amendments to sections 107 – 113 of new Schedule 11.

~~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 given by section 2(1) of the Companies Ordinance (Cap 622) and includes a non-Hong Kong company as defined by that section; (Amended 28 of 2012 ss. 912 & 920)

~~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, means the period in respect of which either of the following profit and loss accounts of the body corporate is made up, whether that period is a year or not- (Amended 28 of 2012 ss. 912 & 920)

- (a) if the body corporate is not required to hold a general meeting to lay the profit and loss account, the profit and loss account provided to every member, as required by the law under which the body corporate is incorporated or (in the absence of such requirement by such law) by its constitution;
 - (b) in any other case, the profit and loss account laid before the body corporate in a general meeting, as required by the law under which the body corporate is incorporated or (in the absence of such requirement by such law) by its constitution;
- (Amended 28 of 2012 ss. 912 & 920)

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)

~~↑~~; except in Parts X and XI;

see section 9;

~~↑~~ an authorized insurer

(1) Except as otherwise defined in section 13A(12), 13B(1), 64F or 79(1), **controller** (控權人), in relation to an applicable company—

(a) means—

(i) a managing director of the applicable company or of a body corporate of which the applicable company is a subsidiary;

(ii) a chief executive of the applicable company or of a body corporate, being an insurer, of which the applicable company is a subsidiary; or

(iii) a person—

(A) in accordance with whose directions or instructions the directors of the applicable company or of a body corporate of which the applicable company is a subsidiary (or any of them) are accustomed to act; or

(B) who, alone or with an associate or through a nominee, is entitled to exercise, or control the exercise of, 15% or more of the voting power at a general meeting of the applicable company or of a body corporate of which the applicable company is a subsidiary; but

(b) does not include a Manager.

- (d) that the company is, and will continue to be, able to meet its obligations including obligations in respect of business other than the class of insurance business in respect of which the application is made; and
- (e) in the case of a company to which Part XI of the Companies Ordinance (Cap. 32) applies, that it has complied with the provisions of that Part; and
- (f) that the company will be able to comply with such of the provisions of this Ordinance as would be applicable to it; and
- (g) that in the case of a company which carries on, or proposes to carry on, some other form of business in addition to insurance business, the carrying on of that other form of business in addition to insurance business is not contrary to the interest of existing and potential policy holders; and
- (h) that the name of the company is not likely to deceive.
- (4) For the purposes of this Ordinance—
- (a) in computing the amount of the liabilities of a company or an insurer, as the case may be, all contingent and prospective liabilities shall be taken into account but not liabilities in respect of the company's or insurer's share capital;
- (b) subject to subsection (5), the value of any assets and the amount of any liabilities shall be determined in accordance with any applicable regulations made under section 59(1)(a), and paragraph (a) shall have effect subject to any such regulations; (*Amended 29 of 1997 s. 3*)
- (c) if no such regulations are applicable in the case of a company or an insurer, as the case may be, regard shall be had—
- (i) in determining the value of its assets, to their market value and the cost of realizing such assets; and
- (ii) in determining the amount of its liabilities, to the cost of the settlement of such liabilities and, where the amount of any such liabilities is assessed or estimated, to the experience of the company or insurer in carrying on any relevant insurance business or of other persons carrying on the same or similar insurance business. (*Replaced 25 of 1994 s. 4*)
- (5) Subsection (4)(b) shall not apply in the case of a company carrying on or intending to carry on business as a captive insurer. (*Added 29 of 1997 s. 3*)

9. ~~Meaning of “controller” (控權人) in section 8(2)~~

~~(1) In section 8(2) “controller” (控權人), in relation to a company (“the applicant” (申請人)), means—~~

~~(a) a managing director of the applicant or of a body corporate of which it is a subsidiary;~~

* applicable company

↑ the applicable company

**
 (5) In this section—
applicable company (適用公司) means—
 (a) a company making an application under section 7;
 or
 (b) an authorized insurer.

~~(b) a chief executive of the applicant or of a body corporate, being an insurer, of which it is a subsidiary;~~

~~(c) a person—~~

- ~~(i) in accordance with whose directions or instructions the directors of the applicant or of a body corporate of which it is a subsidiary (or any of them) are accustomed to act; or~~
~~(ii) who, alone or with any associate or through a nominee, is entitled to exercise, or control the exercise of, 15% or more of the voting power at any general meeting of the applicant or of a body corporate of which it is a subsidiary.~~
~~(Amended 8 of 1989 s. 2)~~

(2) Subject to subsection (3), in this section “chief executive” (行政總裁), in relation to the applicant or a body corporate of which it is a subsidiary, means an employee of the applicant or that body corporate, who, alone or jointly with others, is responsible under the immediate authority of the directors for the conduct of the whole of the insurance business of the applicant or that body corporate.

(3) In relation to an applicant incorporated outside Hong Kong—

(a) the reference in subsection (1)(a) to a managing director of the applicant includes a reference to a person who is a managing director of the applicant in respect of so much of its insurance business as is carried on within Hong Kong; and

(b) the reference in subsection (1)(b) to a chief executive of the applicant includes a reference to a person employed by the applicant who, alone or jointly with others, is responsible (whether or not under the immediate authority of the directors) for the conduct of the whole of the insurance business carried on by the applicant within Hong Kong, not being a person who—
 (i) is also responsible for the conduct of insurance business carried on by the applicant elsewhere; and
 (ii) has a subordinate who is responsible for the whole of the insurance business carried on by the applicant within Hong Kong.

(4) In this section “associate” (相聯者), in relation to any person, means—

- (a) the wife or husband or minor child of that person;
 (b) any body corporate of which that person is a director;
 (c) any person who is an employee or partner of that person;
 (d) if that person is a body corporate—
 (i) any director of that body corporate;
 (ii) any subsidiary of that body corporate;
 (iii) any director or employee of any such subsidiary,

and for the purposes of this subsection “child” includes a step-child.

~~(6) The Insurance Authority shall not be obliged to disclose to the insurer or to the person proposed to be appointed as a controller any particulars of the ground on which he is considering the service on the insurer of a notice of objection.~~

~~(7) Where representations are made in accordance with subsection (5)(b), the Insurance Authority shall take them into consideration before serving the notice of objection concerned.~~

~~(8) If the insurer or the person concerned is aggrieved by the decision of the Insurance Authority to serve a notice of objection on the insurer, the insurer or person concerned may, within 1 month from the date on which the notice is served, appeal against the decision to the Financial Secretary whose decision shall be final.~~

~~(9) Any authorized insurer which fails to comply with subsection (2) commits an offence and is liable to a fine of \$200,000. (Amended 35 of 1996 s. 6)~~

~~(10) Any person who fails to comply with subsection (3) commits an offence and is liable to a fine of \$200,000 and, in the case of an individual, to imprisonment for 2 years, together with a fine of \$2,000 for each day on which the offence continues. (Amended 35 of 1996 s. 6)~~

~~(Added 44 of 1990 s. 3)~~

(a) means—

- (i) in relation to an authorized insurer which is incorporated in Hong Kong—an individual who is a managing director or chief executive of the insurer; or
- (ii) in relation to an authorized insurer which is incorporated outside Hong Kong—an individual who is—
 - (A) a managing director of the insurer in respect of so much of its insurance business as is carried on within Hong Kong; or
 - (B) a chief executive of the insurer who, alone or jointly with others, is responsible (whether or not under the immediate authority of the directors) for the conduct of the whole of the insurance business carried on by the insurer within Hong Kong, not being an individual who—
 - (I) is also responsible for the conduct of insurance business carried on by the insurer elsewhere; and
 - (II) has a subordinate who is responsible for the whole of the insurance business carried on by the insurer within Hong Kong; but

(b) does not include a Manager.

13A. Approval of certain controllers of authorized insurers

(12) In this section—

controller (控權人)—

- ~~(a) in relation to an authorized insurer which is incorporated in Hong Kong—means an individual who is a managing director or chief executive of the insurer under section 9; or~~
- ~~(b) in relation to an authorized insurer which is incorporated outside Hong Kong—means an individual who is—

 - (i) a managing director of the insurer by virtue of section 9(3)(a); or
 - (ii) a chief executive of the insurer by virtue of section 9(3)(b).~~

13B. Approval of persons proposing to become certain controllers of authorized insurer

(1) In the section—
 “controller” (控權人), in relation to an authorized insurer, means a person who, alone or with any associate within the meaning of section 9(4) or through a nominee, is entitled to exercise, or control the exercise of, 15% or more of the voting power at any general meeting of the insurer;
 “notice of objection” (反對通知書) means a notice in writing objecting to the person specified in that notice becoming a controller, or being a controller, as the case may be, of the authorized insurer specified in that notice.

(2) No person shall become a controller of an authorized insurer incorporated in Hong Kong unless—

|| (a) he has served on the ~~Insurance Authority~~ a notice in writing stating that he proposes to become a controller of that insurer and containing the information specified in ~~the Fifth Schedule~~

|| and
 || (b) one of the following occurs—
 || (i) the ~~Insurance Authority~~ has, before the expiration of 3 months from the date of service of that notice, notified him in writing that there is no objection to his becoming a controller of the insurer;

|| (ii) the period referred to in subparagraph (i) has expired without the ~~Insurance Authority~~ having served on him a preliminary notice referred to in subsection (4); or
 (Amended 35 of 1996 s. 7)

- (a) omits a material particular from a statement with the result that the statement is rendered false or misleading; and
- (b) knows that, or is reckless as to whether, the material particular is omitted from the statement.
- (3) A person who commits an offence under subsection (1) or (2) is liable to a fine at level 5 and to imprisonment for 6 months.

* , but does not include a Manager

- Authority
- ↑ Schedule 5
- ↑ ;
- △ (ab) a prescribed fee has been paid; and

38A. Effect of direction given under section 35(2)(b)

(1) Subject to section 38B(3)(a), immediately upon a direction given under section 35(2)(b) coming into force—

- (a) in respect of ~~an insurer~~ incorporated in Hong Kong, any appointment of a person as a chief executive or director of the insurer which was in force immediately before that direction came into force;
- (b) in respect of ~~an insurer~~ incorporated outside Hong Kong, any appointment of a person as a controller (within the meaning of ~~paragraph (b) of the definition of “controller” in section 13A(1)~~) of the insurer which was in force immediately before that direction came into force,

shall be deemed to be revoked and, accordingly, that person shall not act or continue to act as such chief executive, director or controller, as the case may be, during the period for which that direction is in force.

(2) ~~An insurer~~ is not required to give any notice to the ~~Insurance Authority~~ pursuant to section 14(1) or (2), and a person is not required to give any notice to ~~an insurer~~ pursuant to section 14(3), as a consequence of the operation of subsection (1).

(3) During the period for which a direction given under section 35(2)(b) is in force in respect of ~~an insurer~~—

- (a) no meeting of the insurer may be held except with the consent, and in the presence, of the Manager of the insurer;
- (b) no resolution may be passed at a meeting of the insurer except with the consent of the Manager of the insurer.

(4) It is hereby declared that—

- (a) any resolution passed, or purporting to have been passed, in contravention of subsection (3)(b);
- (b) any thing done in reliance on any such resolution,

shall be invalid by reason of that contravention.

(5) Where any member or director of ~~an insurer~~ requests the Manager of the insurer to give a consent referred to in subsection (3)(a), the Manager shall not unreasonably refuse to give that consent.

(6) In this section, “meeting” (會議), in relation to ~~an insurer~~, means—

- (a) any general meeting of the members of the insurer; or
- (b) any meeting of the directors of the insurer.

(Added 51 of 1992 s. 10)

↑ an authorized insurer

↑ 13A(12) * paragraph (a)(ii) of the definition of *controller* in section 13A(12)

□ Authority

↓ An authorized insurer

38B. Powers of Manager

(1) The Manager of ~~an insurer~~

↑ an authorized insurer

- (a) may do all such things as may be necessary for the management of the affairs, business and property of the insurer; and
- (b) without prejudice to the generality of paragraph (a), shall have, and may exercise, in respect of that insurer, all the powers specified in ~~the Seventh Schedule.~~

↑ Schedule 7

(2) The Manager of ~~an insurer~~

↑ ~~13A(12)~~

- (a) has ceased to be a chief executive, director or controller (within the meaning of paragraph (b) of the definition of "controller" in section ~~13A(1)~~ of the insurer as a consequence of the operation of section 38A(1); or
- (b) is a controller of the insurer, to submit such information in relation to the affairs, business and property of the insurer as the Manager may reasonably require for the performance of his functions or the exercise of his powers in respect of the insurer, and such information shall be submitted within such period and in such manner as the Manager may require.

* paragraph (a)(ii) of the definition of controller in section 13A(12)

(3) The Manager of ~~an insurer~~ may

↑ Authority

- (a) with the approval of the ~~Insurance Authority~~
 - (i) if the insurer is incorporated in Hong Kong, appoint any person (including a person referred to in section 38A(1)(a)) to be a chief executive or director of the insurer, whether to fill a vacancy arising from the operation of section 38A(1)(a) or otherwise;
 - (ii) if the insurer is incorporated outside Hong Kong, appoint any person (including a person referred to in section 38A(1)(b)) to be a controller (within the meaning of paragraph (b) of the definition of "controller" in section ~~13A(1)~~ of the insurer, whether to fill a vacancy arising from the operation of section 38A(1)(b) or otherwise;
 - (iii) revoke any appointment made pursuant to subparagraph (i) or (ii);
- (b) call any meeting of the members, directors or creditors of the insurer.

Part XI

Disciplinary Actions and Conduct Requirements
for Licensed Insurance Intermediaries and Certain
Officers

Division 1—Preliminary

79. Interpretation

(1) In this Part—

***misconduct** (不當行為) means—

- (a) a contravention of a provision of this Ordinance;
- (b) a contravention of a term or condition of a licence granted under this Ordinance;
- (c) a contravention of any other condition imposed under a provision of this Ordinance; or
- (d) an act or omission relating to the carrying on of any regulated activity which, in the Authority's opinion, is or is likely to be prejudicial to the interests of policy holders or potential policy holders or the public interest,

**controller** (控權人) has the meaning given by section 64F;