

**Bills Committee on  
Insurance Companies (Amendment) Bill 2014**

**Licensing Regime for Insurance Intermediaries  
(Amendments to Part X and Other Relevant New Provisions)**

**INTRODUCTION**

This paper sets out the policy objectives of the amended provisions and key new provisions of the Insurance Companies Ordinance (“ICO”) (Cap. 41) to be added by Clauses 7, 13, 71 to 84 and 86 of the Insurance Companies (Amendment) Bill 2014 (“the Bill”). The provisions provide for the proposed statutory licensing regime for insurance intermediaries and repeal provisions that are no longer relevant to a statutory licensing regime.

**BACKGROUND**

2. Currently, Part X of the ICO provides for the self-regulatory regime for insurance intermediaries. There are three self-regulatory organizations (“SROs”), namely, the Insurance Agents Registration Board (“IARB”) established under the Hong Kong Federation of Insurers, the Hong Kong Confederation of Insurance Brokers (“CIB”), and the Professional Insurance Brokers Association (“PIBA”).

3. The existing self-regulatory regime for insurance intermediaries is to be replaced by the proposed statutory licensing regime administered by the independent Insurance Authority (“IA”). We propose to amend existing provisions of and add new provisions to the ICO to provide for the licensing regime, principles of conduct requirements of licensed insurance intermediaries, as well as the IA’s power to conduct inspection and investigation, and to impose disciplinary sanctions. Provisions in relation to the conduct requirements of licensed insurance intermediaries and the IA’s power to impose disciplinary sanctions will be discussed in a separate paper.

4. To ensure a smooth transition to the new regulatory regime, we propose that pre-existing insurance intermediaries validly registered with the SROs will be deemed as licensees upon commencement of the new regime until a licence is granted by the IIA or the expiry of a three-year transitional period, whichever is earlier. The transitional arrangements will be discussed in a separate paper.

5. The provisions relevant to the licensing regime fall into the following areas –

- (a) definition of the regulated activities;
- (b) the licensing regime, including the types of licence, eligibility criteria for obtaining a licence, and the requirement for appointing a responsible officer by licensees which are business entities, the establishment of a register of licensees, and restrictions for a person to be an insurance agent and an insurance broker at the same time;
- (c) the IIA's powers of inspection and investigation in respect of insurance intermediaries, including the delegation of such powers by the IIA to the Hong Kong Monetary Authority for the frontline supervision of banks' insurance intermediary activities; and
- (d) repeal of provisions that are outdated and irrelevant to the licensing regime to reduce regulatory burden.

## **POLICY OBJECTIVES AND MAJOR PROVISIONS**

### **(a) Regulated Activities**

6. Under the proposed licensing regime for insurance intermediaries, a person must not carry on or hold out to carry on a regulated activity in the course of the person's<sup>1</sup> business or employment, or for reward, unless the person is licensed by the IIA (new section 64G added by Clause 71). A person who, without reasonable excuse, carries on or holds out to carry on a regulated activity without a licence commits

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<sup>1</sup> Under the Interpretation and General Clauses Ordinance (Cap. 1), a "person" includes any body of persons, corporate or unincorporate.

a criminal offence.<sup>2</sup> The proposed statutory definition of “regulated activities” covers activities in relation to negotiating or arranging a contract of insurance, inviting or inducing a person to enter into a contract of insurance, giving advice on insurance, and sale and after-sale services relevant to insurance policies. The relevant provisions are in new section 3A and new Schedule 1A (added by Clauses 7 and 86 of the Bill) at **Annex A**.

7. New section 118 added by Clause 84 replaces the existing section 56A of the ICO, which provides that a person must not use the word “insurance” in the person’s name and make representations associated with insurance business unless the person is an authorized insurer, a licensed insurance intermediary or an industry association of industry practitioners, etc. New section 64H provides that active marketing of insurance services targeting the Hong Kong market from a place outside Hong Kong is regarded as holding out to carry on a regulated activity.

8. New section 121 added by Clause 84 of the Bill provides for exemptions from licensing under certain circumstances such that –

- (i) certain professionals (e.g. counsel, solicitors, certified public accountants and actuaries) may give regulated advice wholly incidental to their practice (new section 121(1)(a), (b), (c) and (e));
- (ii) trust companies, loss adjustors and group companies may give regulated advice under specified circumstances (e.g. a loss adjustor giving advice to an insurer to facilitate the latter’s assessment of claims) (new section 121(1)(d), (g) and (h));
- (iii) a person may give regulated advice to the public through the mass media (new section 121(1)(f)); and
- (iv) a person may discharge clerical or administrative duties on

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<sup>2</sup> A person who commits this offence is liable –

- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years and, in the case of a continuing offence, to a further fine of \$20,000 for each day during which the offence continues; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months and, in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

behalf of an authorized insurer or a licensed insurance intermediary (new section 121(2)).

## **(b) Licensing Regime**

### *Types of licence*

9. The IIA can issue the following five types of insurance intermediary licences –

|                                     | <b>Licensed insurance agent</b>                                                               | <b>Licensed insurance broker</b>     |
|-------------------------------------|-----------------------------------------------------------------------------------------------|--------------------------------------|
| <b>Licence to Business Entities</b> | 1. Licensed insurance agency                                                                  | 2. Licensed insurance broker company |
| <b>Licence to Individuals</b>       | 3. Licensed individual insurance agent<br>4. Licensed technical representative (“TR”) (agent) | 5. Licensed TR (broker)              |

The categorization of licences mirrors the existing categories of registration under the self-regulatory regime. This is to ensure a smooth transition to the new regime by avoiding possible confusion caused by re-categorization of licences. The IIA may review the categorization of licences after the 3-year transitional period in the light of market developments.

### *Application for and renewal of licences*

10. New sections 64U to 64ZD provide that an eligible person can apply for a licence in the manner specified by the IIA and on payment of a prescribed fee, and that the IIA must not grant a licence unless it is satisfied that the applicant is fit and proper. In determining whether a person is fit and proper, the IIA is required to consider factors such as the person’s qualifications, integrity, financial status and compliance history as set out in new section 64ZZA added by Clause 71 (see **Annex B**). New section 64ZG provides that the IIA may impose conditions on granting a licence. A person can only hold or apply for one type of licence, and a licence is valid for three years. The eligibility criteria for each type of licences are set out in **Annex C**.

11. New section 64ZZC provides for the form of a licence<sup>3</sup>. New section 64ZZE provides that a person commits an offence if the person makes a materially false or misleading statement in connection with an application, and is liable to a fine at level 5<sup>4</sup> and to imprisonment for 6 months.

12. New sections 64ZV to 64ZY provide for renewal of licences. New section 64ZZB sets out the procedural requirements on the IIA for rejecting an application or imposing or amending conditions, including giving the applicant an opportunity to make representations. The IIA's decisions are appealable to the independent Insurance Appeals Tribunal ("IAT").

*Arrangements when a licensee is not able to carry on regulated activities temporarily or permanently*

13. A licensed insurance agency or a licensed individual insurance agent is licensed to represent its appointing insurer; and a licensed TR(agent) or licensed TR(broker) is licensed to represent his /her respective appointing licensed insurance agency or appointing licensed insurance broker company. It is therefore important to ensure that they may only conduct regulated activities during the period within which the appointments are effective. New sections 64ZH and 64ZI provide that when a licensed insurance agency or a licensed individual insurance agent ceases to be appointed by at least one authorized insurer, its licence would be suspended from the date of cessation and revoked if the

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<sup>3</sup> A licence granted by the IIA must be in a form specified by the IIA and must specify –

- (a) the name of the licensee and the reference number assigned by the IIA;
- (b) the conditions imposed or amended;
- (c) the period for which the licence is valid;
- (d) the lines of business which the licensee may carry on;
- (e) business address of the licensee (only applicable to corporate licensees);
- (f) name of the authorized insurer(s) by which the licensee is appointed (only applicable to licensed insurance agencies and licensed individual insurance agents); and
- (g) name of the licensed insurance agency or licensed insurance broker company by which the licensee is appointed (only applicable to licensed TRs(agent) and licensed TRs(broker)).

<sup>4</sup> Pursuant to schedule 8 of the Criminal Procedure Ordinance (Cap. 221), the amount of a level 5 fine is \$50,000.

cessation continues for 180 days. New sections 64ZJ and 64ZK provide for a similar arrangement when a licensed TR(agent) or a licensed TR(broker) ceases to be appointed by his/her respective licensed insurance agency or licensed insurance broker company.

14. New section 64ZP provides that an individual's licence is revoked on his death or and a business entity's licence is revoked on dissolution or winding-up. New section 64ZS provides that a revocation or suspension of licence of a person does not avoid or affect an agreement, transaction or arrangement entered into or arranged by the person. New section 64ZT provides that the IIA may require a person, of whom the licence is suspended or revoked, to transfer to a client a copy of records relating to the client's assets or affairs<sup>5</sup>.

*Responsible officers ("ROs") of business entity licensees*

15. Under the existing self-regulatory regime, a registered insurance intermediary which is a business entity is required to appoint an individual<sup>6</sup> who is responsible for the conduct of the entity's insurance intermediary business in Hong Kong. We proposed to apply the same requirements under the proposed licensing regime. Licensees which are business entities are required to appoint at least one RO for establishing internal control and procedures to promote compliance with conduct requirements by the companies and their TRs. New sections 64ZE and 64ZF provide that a business entity licensee may, in the manner specified by the IIA and on payment of a prescribed fee, apply to the IIA for the approval of one or more individuals as ROs. The IIA must not grant an approval unless it is satisfied that the individual is a licensed TR and fit and proper (see also **Annex B**) to discharge the responsibilities of an RO. New sections 64ZG, 64ZZB and 64ZZE (see paragraphs 10 to 12 above) are also applicable to the IIA's approval in relation to ROs.

16. New sections 64ZL and 64ZM provide that the approval of a

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<sup>5</sup> A person who fails to comply with this requirement without reasonable excuse commits an offence and is liable to a fine of \$200,000 and to imprisonment for 2 years.

<sup>6</sup> Currently, an insurance agency registered with IARB is required to appoint a responsible officer and an insurance broker registered with CIB or PIBA is required to appoint a chief executive.

person as an RO is revoked if he/she ceases to be a licensed TR, and that the IIA may revoke the approval if it is satisfied that the person ceases to be responsible for the conduct of regulated activities of the business entity licensee or ceases to have sufficient authority or resources to discharge an RO's duties. New sections 64ZN and 64ZO provide that the IIA may suspend the licence of a business entity licensee if it ceases to have an RO, and may revoke its licence if an application for approval of an RO is not made within 90 days from the cessation or is rejected.

### *Register of licensed insurance intermediaries*

17. The IIA is required to maintain a register of licensed insurance intermediaries for free inspection by the public, and the licensees will be obliged to provide updated particulars to the IIA. New section 64O sets out the items to be included in the register. New sections 64P to 64R and 64T provide for the duties of licensees to report to the IIA changes to their particulars and appointments, and cessation of business. Licensees who contravene such requirements commit an offence and is liable to a fine at level 5<sup>4</sup>. New section 64S provides that licensees may apply to the IIA for varying lines of business.

### *Other restrictions on licensed insurance intermediaries*

18. At present, section 65 of the ICO sets out the restrictions on the personnel of insurance agents and insurance brokers. The objectives of the restrictions are to prevent (i) a person from being an insurance agent and an insurance broker at the same time; and (ii) an insurance agent from circumventing the requirement that the agent can only be appointed by the defined maximum number of authorized insurers. New sections 64I to 64K and 64N substitute for the existing section 65 which will be repealed by Clause 72 of the Bill.

19. New section 64I provides that a licensed insurance agency or licensed individual insurance agent must not be appointed by more than the maximum number of authorized insurers that are prescribed in rules (i.e. subsidiary legislation) made by the IIA<sup>7</sup>. New sections 64J and

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<sup>7</sup> Currently under the self-regulatory regime, an insurance agent can be appointed by not more than four authorized insurers, from which no more than two are long-term insurers.

64K replace the existing section 65(4) to (11) of the ICO, with necessary updates to reflect the restrictions when applicable to a personnel of licensed insurance agencies or personnel of licensed insurance broker companies under the new regime.

20. New section 64N, which replaces the existing section 65(13) to (15), provides that an authorized insurer must not enter into an insurance contract through a person or accept referral of insurance business from a person, if that person is not a licensed insurance intermediary. New section 64L(1) provides that a licensed TR(agent) can represent only one licensed insurance agency. New section 64L(2) and 64M provide that a licensed TR(agent) or licensed TR(broker) must not carry on regulated activities in a line of business unless the respective appointing licensed insurance agent or licensed insurance broker company is licensed to carry on regulated activities in that line of business.

### **(c) Inspection and Investigation Powers in respect of Insurance Intermediaries**

21. New sections 64ZZF to 64ZZT added by Clause 71 of the Bill provide the IIA with express powers to conduct inspection and, with reasonable cause to believe investigation is necessary (see paragraph 23 below), to initiate investigation on licensed insurance intermediaries. These powers are similar to those set out in new Part VA added by Clause 55 of the Bill in respect of authorized insurers, and those vested with other financial services regulators in respect of their regulatees under the relevant ordinances<sup>8</sup>.

22. New section 64ZZF provides that, for ascertaining whether a licensed insurance intermediary has complied with requirements under the amended ICO, an inspector appointed by the IIA may enter the intermediary's business premises, inspect and make copies of the intermediary's business record, and make enquiries. An inspector may ask the intermediary to produce a business record within a specific time

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<sup>8</sup> Including the Securities and Futures Ordinance (Cap. 571), the Mandatory Provident Fund Schemes Ordinance (Cap. 485) and the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615).

and at a specific place, and to answer relevant questions.

23. New section 64ZZH provides that the IIA may direct its employees or, with the consent of the Financial Secretary, appoint other persons to initiate investigation when the IIA –

- (a) has reasonable cause to believe that a provision of the ICO may have been contravened;
- (b) 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 regulated activity;
- (c) has reasonable cause to believe that a person has carried on, or is carrying on, regulated activity in a manner that is not in the interests of policy holders or potential policy holders or the public interest;
- (d) has reason to enquire if a person is, or was, guilty of misconduct or not fit and proper before considering if disciplinary sanctions should be imposed on the person.

In particular, section 64ZZH(6) provides that an investigator may require a person<sup>9</sup> to produce a record or document, give an explanation in respect of the record or document, answer a question relating to the investigation, and give other assistance.

24. New sections 64ZZG and 64ZZI provide that an inspector or investigator may require a person to, by a statutory declaration, verify his/her answer or explanation to inquiries. In case a person does not comply with requirements by the inspector or investigator for the reason that the information concerned is not within the person's knowledge or possession, the inspector or investigator may require the person to verify, by a statutory declaration, that the person does not comply with requirements for that reason.

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<sup>9</sup> As defined in new section 64ZZH(7), this refers to a person –

- (a) who is relevant to the matter being investigated; or
- (b) whom an investigator has reasonable cause to believe to be in possession of a record or document that contains information relevant to the investigation.

25. New section 64ZZK provides that an inspector or investigator may apply to the Court of First Instance for an inquiry into a person's failure to comply with a requirement imposed by the inspector or investigator. The Court of First Instance, on being satisfied that there being no reasonable excuse, may order the person to comply with the requirement within a specified time (new section 64ZZK(2)(a)) and punish the person as if the person had been guilty of contempt of court (new section 64ZZK(2)(b))<sup>10</sup>.

26. New section 64ZZL(1) to (5) provides that a person commits an offence if the person –

- (a) fails to comply with a requirement imposed by an inspector or investigator without reasonable excuse;
- (b) fails to comply with a requirement imposed by an inspector or investigator with intent to defraud;
- (c) in purported compliance with a requirement imposed by an inspector or investigator, gives a materially false or misleading answer or explanation;
- (d) in purported compliance with a requirement imposed by an inspector or investigator, gives a materially false or misleading answer or explanation with intent to defraud; or
- (e) with intent to defraud, causes or allows another person to fail to comply with a requirement imposed by an inspector or investigator or give a materially false or misleading answer or explanation.

The penalty levels in relation to the above offences are set out in **Annex D**. Section 64ZZL(6) provides that a person is not excused from complying with an investigator's requirement under new section 64ZZH(6) (see paragraph 23 above) or verifying an answer or explanation given to an investigator only on the ground that doing so might tend to incriminate the person<sup>11</sup>. Section 64ZZM(2) provides that

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<sup>10</sup> New section 64ZZK(4) provides that no proceedings may be instituted against a person for new section 64ZZK(2)(b) if criminal proceedings have been instituted against the person under new section 64ZZL(1) to (5) (see paragraph 26) in respect of the same conduct.

<sup>11</sup> New section 64ZZL(7) provides that no criminal proceedings may be instituted against a person under section 64ZZL(1) to (5) if proceedings have been instituted

if an investigator requires a person to give an answer or explanation and the person, before giving the answer or explanation, claims that it might tend to incriminate the person, the requirement and the answer or explanation are not admissible in evidence against the person in criminal proceedings in a court of law<sup>12</sup>.

27. New section 64ZZN provides that a person commits an offence if the person destroys, falsifies, conceals or otherwise disposes of a record or document required by an inspector or investigator with an intent to conceal matters capable of being disclosed<sup>13</sup>.

28. New section 64ZZP provides that a magistrate may issue a warrant authorizing a person to enter premises and to search for, seize and remove a record or document if there are reasonable grounds to suspect that on the premises there may be a record or document required by an inspector or investigator.

#### *Frontline regulation of banks' regulated activities*

29. New section 4G added by Clause 13 of the Bill provides that the IIA may, subject to the approval of the Chief Executive ("CE") in Council, delegate its powers of inspection and investigation to the Monetary Authority ("MA"). Given the integrated wealth management services offered by banks, as well as the MA's role as the primary and lead regulator of banks, it is considered desirable to enable the MA to carry out frontline regulation of banks' insurance intermediary activities so as to yield regulatory synergy between two regulators and minimize regulatory overlap. CE in Council may impose conditions on the approval of delegation and withdraw the approval of delegation after consultation with the IIA and MA, and the IIA may revoke the delegation after consultation with the MA. A delegation does not prevent the IIA

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against the person under new section 64ZZK(2)(b) (see paragraph 25 above) in respect of the same conduct.

<sup>12</sup> Except for criminal proceedings in which the person is charged with an offence under new section 64ZZL(1) to (5) or under Part V of the Crimes Ordinance (Cap. 200), or perjury.

<sup>13</sup> A person who commits this offence is liable to –

- (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.

from concurrently performing the delegated powers. New section 4G(8) provides for the applicability of specific sections to the MA when the delegation is approved.

30. Even if the delegation of powers is approved, the IIA will remain the sole authority to grant licences, set regulatory standards and exercise power to impose disciplinary sanctions in relation to all insurance intermediaries. To ensure regulatory consistency and enhance efficiency, the IIA and the MA will establish various collaborative arrangements including the signing of a Memorandum of Understanding on regulatory cooperation, reciprocal staff secondment, regular liaison meetings, etc.

#### **(d) Other amendments**

31. The existing sections 71 and 77(12) provide safeguards to customers by imposing requirements on the handling of client monies by insurance broker companies, including requirements to separate client monies from the companies' monies, to pay client monies into client accounts and to prohibit the companies from creating a charge or mortgage on client monies. The proposed new section 71 provides for the same safeguards with further elaborations on the requirements on timely handling of client monies by insurance broker companies. The penalty level for the relevant offence remains the same.

32. We proposed to, by Clause 82 of the Bill, repeal certain offence provisions which will become obsolete under the proposed regime. These include the existing sections 77(9)(b) to (e) and 77(10) covering, for example, the failure of insurers to investigate a complaint referred to them by the IARB or their failure to take the disciplinary action required by the IARB. Such functions will be performed by the IIA in future.

**Definition of “Regulated Activity”  
(Schedule 1A of the Bill)**

1. A person carries on a regulated activity if the person does any of the following acts –
  - (a) the act of negotiating or arranging a contract of insurance;
  - (b) the act of inviting or inducing, or attempting to invite or induce, a person to enter into a contract of insurance;
  - (c) the act of inviting or inducing, or attempting to invite or induce, a person to make a material decision;
  - (d) the act of giving regulated advice.
2. A person makes a material decision if the person makes a decision in relation to any of the following matters –
  - (a) the making of an application or proposal for a contract of insurance;
  - (b) the issuance, continuance or renewal of a contract of insurance;
  - (c) the cancellation, termination, surrender or assignment of a contract of insurance;
  - (d) the exercise of a right under a contract of insurance;
  - (e) the change in any term or condition of a contract of insurance;
  - (f) the making or settlement of an insurance claim.
3. A person gives regulated advice if the person gives an opinion in relation to any of the following matters –
  - (a) the making of an application or proposal for a contract of insurance;
  - (b) the issuance, continuance or renewal of a contract of insurance;
  - (c) the cancellation, termination, surrender or assignment of a contract of insurance;
  - (d) the exercise of a right under a contract of insurance;
  - (e) the change in any term or condition of a contract of insurance;
  - (f) the making or settlement of an insurance claim.

**Determination of Fit and Proper**  
**(New Section 64ZZA added by Clause 71 of the Bill)**

(1) In determining whether a person is a fit and proper person for the purposes of new Division 3 of Part X (i.e. Licensing), the independent Insurance Authority (“IIA”) 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
  - (iv) any other authority or regulatory organization, whether in Hong Kong or elsewhere, which, in the IIA’s opinion, performs a function similar to those of the IIA;
- (f) if the person is a company in a group of companies, any information in the possession of the IIA, whether provided by the person or not, relating to –
  - (i) any other company in the group of companies; or
  - (ii) any controller or director of the person or of any company referred to in subparagraph (i);
- (g) the state of affairs of any other business which the person carries on or proposes to carry on.

(2) In determining whether a person is a fit and proper person for the purposes of new section 64U or 64ZA, or new section 64ZV for the renewal of a license granted under new section 64U or 64ZA, the IIA must also have regard to any information in its possession whether provided by the person or not relating to –

- (a) any other person who is or is to be employed by, or associated with the person for the purposes of carrying on regulated activities;
- (b) any other person who is or will be acting for or on behalf of the

- person in relation to carrying on regulated activities; and
- (c) the question as to whether the person has established effective internal control procedures and risk management systems to ensure its compliance with the Insurance Companies Ordinance.
- (3) The obligations imposed on the IIA under subsection (1) or (2) (or both) are in addition to those of the IIA to have regard to any other matter that the IIA considers relevant in making the determination.

**Major Eligibility Criteria for Grant of Insurance Intermediary Licences  
(New Sections 64U to 64ZD of the Bill)**

|                                          | <b>Insurance agency</b>                                                                                                                                                            | <b>Individual insurance agent</b>    | <b>Technical representative (agent)</b> | <b>Insurance broker company</b>                                                                                                                                                                  | <b>Technical representative (broker)</b> |
|------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| <b>Form of business</b>                  | <ul style="list-style-type: none"> <li>• Sole proprietor</li> <li>• Partnership</li> <li>• Company</li> </ul>                                                                      | Individual                           | Individual                              | Company                                                                                                                                                                                          | Individual                               |
| <b>Fitness and propriety<sup>1</sup></b> | Sole proprietor <ul style="list-style-type: none"> <li>• the applicant must be fit and proper</li> <li>• a controller<sup>2</sup> in relation to the applicant, if any,</li> </ul> | The applicant must be fit and proper | The applicant must be fit and proper    | <ul style="list-style-type: none"> <li>• The applicant must be fit and proper</li> <li>• Each director of the applicant must be fit and proper</li> <li>• A controller<sup>2</sup> in</li> </ul> | The applicant must be fit and proper     |

<sup>1</sup> Factors which the independent Insurance Authority (“IIA”) must have regard to in determining whether a person is fit and proper are set out in new section 64ZZA added by Clause 71 of the Bill. Please refer to **Annex B**.

<sup>2</sup> A “controller”, as defined in new section 64F added by Clause 71 of the Bill, means –

- (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 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.

|                                 | Insurance agency                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Individual insurance agent                                       | Technical representative (agent)                             | Insurance broker company                                | Technical representative (broker)                                |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------------|------------------------------------------------------------------|
|                                 | <p>must be fit and proper</p> <p>Partnership</p> <ul style="list-style-type: none"> <li>• each partner of the applicant must be fit and proper</li> <li>• a controller<sup>2</sup> in relation to the applicant must be fit and proper</li> </ul> <p>Company</p> <ul style="list-style-type: none"> <li>• the applicant must be fit and proper</li> <li>• each director of the applicant must be fit and proper</li> <li>• a controller<sup>2</sup> in relation to the applicant must be fit and proper</li> </ul> |                                                                  |                                                              | <p>relation to the applicant must be fit and proper</p> |                                                                  |
| <b>Appointment requirements</b> | Must be appointed as an agent by at least one authorized insurer                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Must be appointed as an agent by at least one authorized insurer | Must be appointed as an agent by a licensed insurance agency | N/A                                                     | Must be appointed as an agent by at least one licensed insurance |

|                                   | Insurance agency                                                                                                                                 | Individual insurance agent | Technical representative (agent) | Insurance broker company                                                                                                                                                                                                                                                                                                                  | Technical representative (broker) |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
|                                   |                                                                                                                                                  |                            |                                  |                                                                                                                                                                                                                                                                                                                                           | broker company                    |
| <b>Responsible officer (“RO”)</b> | An application for approval of an individual as an RO (together with an application as a TR) of the applicant must be submitted at the same time | N/A                        | N/A                              | An application for approval of an individual as an RO (together with an application as a TR) of the applicant must be submitted at the same time                                                                                                                                                                                          | N/A                               |
| <b>Other requirements</b>         | N/A                                                                                                                                              | N/A                        | N/A                              | The applicant must be able to demonstrate ability to comply with requirements <sup>3</sup> in relation to – <ul style="list-style-type: none"> <li>• capital and net assets</li> <li>• professional indemnity insurance</li> <li>• the keeping of separate client accounts</li> <li>• the keeping of proper books and accounts</li> </ul> | N/A                               |

<sup>3</sup> These requirements in relation to a licensed insurance broker company will be set out in rules (i.e. subsidiary legislation) made under new section 127.

|                                   | <b>Insurance agency</b>                                                                             | <b>Individual insurance agent</b> | <b>Technical representative (agent)</b> | <b>Insurance broker company</b> | <b>Technical representative (broker)</b> |
|-----------------------------------|-----------------------------------------------------------------------------------------------------|-----------------------------------|-----------------------------------------|---------------------------------|------------------------------------------|
| <b>Exclusivity</b>                | An applicant must not be a holder or an applicant of another type of insurance intermediary licence |                                   |                                         |                                 |                                          |
| <b>Validity period of licence</b> | 3 years or another period determined by the IIA                                                     |                                   |                                         |                                 |                                          |

**Penalty levels for Offences  
under New Section 64ZZL(1) to (5) of the amended ICO**

As provided in new section 64ZZL(8) to (10) of the amended ICO –

- (a) A person who commits an offence under new section 64ZZL(1) is liable –
  - (i) on conviction on indictment to a fine of \$200,000 and to imprisonment for 1 year; or
  - (ii) on summary conviction to a fine at level 5 and to imprisonment for 6 months.
  
- (b) A person who commits an offence under new section 64ZZL(3) is liable –
  - (i) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (ii) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
  
- (c) A person who commits an offence under new section 64ZZL(2), (4) or (5) is liable –
  - (i) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years; or
  - (ii) on summary conviction to a fine at level 6 and to imprisonment for 6 months.