

**For information**

**Legislative Council Panel on Financial Affairs**

**Commencement of the new statutory regulatory regime  
for insurance intermediaries**

**PURPOSE**

This paper briefs Members on three pieces of subsidiary legislation that are related to the commencement of the new statutory regulatory regime for insurance intermediaries on 23 September 2019.

**BACKGROUND**

2. The Insurance Authority (“IA”) was established on 7 December 2015 after the passage of the Insurance Companies (Amendment) Ordinance 2015 (“Amendment Ordinance”). To ensure a smooth transition from the old regulatory regime to the new one, the IA first took over the regulation of insurance companies from the then Office of the Commissioner of Insurance on 26 June 2017 and will take over the supervision of insurance intermediaries from the three Self-regulatory Organizations (“SROs”)<sup>1</sup> later when it is ready.

3. After ascertaining the transitioning process with the SROs, the IA is ready to commence the regulation of insurance intermediaries on 23 September 2019. In addition to a notice to be made by the Secretary for Financial Services and the Treasury (“SFST”) to commence the regulatory regime for insurance intermediaries, the IA will also make two sets of rules, one on the maximum number of authorized insurers that an insurance agent may represent and the other on the financial and other requirements for licensed insurance broker companies. The commencement notice and the two sets of rules are all subsidiary legislation.

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<sup>1</sup> The three SROs are the Insurance Agents Registration Board (“IARB”) established under The Hong Kong Federation of Insurers (“HKFI”), The Hong Kong Confederation of Insurance Brokers (“CIB”) and the Professional Insurance Brokers Association (“PIBA”).

## **PROPOSALS**

### ***(A) Commencement Notice***

4. In accordance with section 1(2) of the Amendment Ordinance, the SFST appoints 23 September 2019 as the day on which the uncommenced provisions of the Amendment Ordinance come into operation such that the IA will regulate insurance intermediaries starting from that date.

### ***(B) Maximum Number of authorized insurers by which a person may be appointed as a licensed insurance agency or licensed individual insurance agent***

5. An insurance company, as a principal, appoints individual insurance agents or agencies to act on its behalf to distribute insurance products. According to section 64I(1) of the Insurance Ordinance (“IO”) (Cap. 41) added by section 74 of the Amendment Ordinance, a licensed insurance agency or licensed individual insurance agent may be appointed by more than one authorized insurer to carry on a regulated activity, subject to the maximum number of appointing authorized insurers that are prescribed by rules made by the IA under section 129 of the IO.

6. Under the existing self-regulatory regime, an insurance agent or agency may not be appointed by more than four authorized insurers, out of which no more than two are insurers authorized to carry on long term business. The IA proposes to maintain the existing arrangements under the Insurance (Maximum Number of Authorized Insurers) Rules (“Number Rules”) which will also come into operation on 23 September 2019.

### ***(C) Financial and Other Requirements for Licensed Insurance Broker Companies***

7. Pursuant to sections 64ZA and 64ZV of the IO added by section 74 of the Amendment Ordinance, any company applying to the IA for a licence as an insurance broker company, or to renew such licence, will have to be able to demonstrate its ability to comply, or continue to comply, with rules made by the IA under section 129 of the IO in relation to –

- (a) capital and net assets;
- (b) professional indemnity insurance;

- (c) keeping of separate client accounts; and
- (d) keeping of proper books and accounts.

8. Also, section 73 of the IO as amended by section 81 of the Amendment Ordinance requires a licensed insurance broker company to provide the IA with audited financial statements together with an auditor's report stating whether the auditor is of the opinion that the company has continued to comply with the rules made by the IA relating to the matters in paragraph 7 (a) to (d) above and any other information that is prescribed by rules made by the IA under section 129 of the IO.

9. Accordingly, the IA proposes to make the Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules ("Broker Rules") to prescribe the relevant requirements for insurance broker companies. The proposed Broker Rules are largely modelled on the prevailing requirements in the Guideline on Minimum Requirements for Insurance Brokers issued by the IA ("the Guideline on Minimum Requirements"), with considerations given to the existing membership requirements issued by the two SROs for insurance brokers (viz. CIB and PIBA), save for certain updates and refinements to cater for present day circumstances. The Guideline on Minimum Requirements will be rescinded on the commencement date.

10. The major changes to the prevailing requirements proposed to be effected by the Broker Rules are set out below –

(a) Capital and Net Assets

Unlike insurance agents who act for their appointing insurers, insurance broker companies represent policy holders and are solely responsible to policy holders for the services they provide. Insurance broker companies have long been subject to minimum capital and net assets requirements to ensure that they maintain sufficient capital to support their business operation and can continue to service policy holders.

The current levels of minimum paid-up share capital and net assets of insurance broker companies, both set at \$100,000, have not been adjusted in the past two decades. The IA finds it reasonable to increase the minimum paid-up share capital and net assets amounts to \$500,000 each. To allow time for existing insurance broker companies, especially small-sized companies, to effect the necessary

capital injection to comply the new requirements, the IA also proposes a transitional period of slightly more than four years for existing insurance broker companies as set out below –

Phased Increase in Minimum Capital and Net Assets	
- From commencement date to 31 December 2021	\$100,000
- From 1 January 2022 to 31 December 2023	\$300,000
- From 1 January 2024 onwards	\$500,000

Insurance broker companies which are not registered with CIB or PIBA as members immediately before the commencement date and wish to apply for a licence with the IA on or after the commencement date (hereafter called “new insurance broker companies”) will have to comply with the new requirements of \$500,000 upon the commencement date.

(b) Professional Indemnity Insurance (“PII”)

It is important for insurance broker companies to maintain adequate PII coverage to help them compensate their clients (i.e. policy holders) should instances of professional negligence occur, thereby enhancing the protection for policy holders. Against this background, it has long been a requirement for insurance broker companies to take out PII with a minimum indemnity limit.

The IA proposes to maintain the current minimum PII indemnity limit of \$3 million, whilst introducing a cap on the PII deductible up to 50% of net assets (or capital for new insurance broker company) to better protect the interests of policy holders. A deductible under the insurance broker company’s PII policy is the amount of any claim against the insurance broker company which the insurance broker company has to bear itself before the insurer starts indemnifying the insurance broker company under the policy. The higher the amount of deductible, the larger the amount the insurance broker company has to bear. This may eventually lead to a greater adverse impact on the financial soundness of the insurance broker company in the event of a negligence claim.

The IA proposes a transitional period of slightly more than four years for existing insurance broker companies to adjust to the new requirement, i.e. existing insurance broker companies will have to comply with the new requirement with effect from 1 January 2024. New insurance broker companies will have to comply with the new requirement on the cap on PII deductible upon the commencement date.

(c) Client Account Reconciliation

Similar to the prevailing section 71 of the IO, section 71 of the IO as amended by section 79 of the Amendment Ordinance also requires a licensed insurance broker company to hold client monies separate from the company's monies and to use client monies relating to a client only for the purposes of that client. To enhance protection for client monies, the IA proposes to include in the Broker Rules a requirement for insurance broker companies to perform client account reconciliation on a monthly basis.

Client account reconciliation enables an insurance broker company to identify variances between its bank statements and its own books with regard to client monies and to take remedial actions if necessary. Currently, CIB, but not PIBA, requires its broker members to conduct client account reconciliation at least once a month.

The IA proposes a transitional period of six months for existing insurance broker companies to adjust to the new requirement, i.e. existing insurance broker companies will have to comply with the new requirement with effect from 23 March 2020. New insurance broker companies will have to comply with the new requirement on monthly reconciliation of client accounts upon the commencement date.

(d) Accounting Disclosures in Audited Financial Statements

Pursuant to the existing Guideline on Minimum Requirements and membership requirements of CIB and PIBA, an insurance broker company is required to submit audited financial statements to the SRO concerned. To promote consistency in financial reporting and to facilitate comparability of the financial statements of licensed

insurance broker companies to be submitted to the IA, the IA proposes to require licensed insurance broker companies to disclose the following accounting information in the audited financial statements –

- (i) insurance brokerage income distinguishing between general business and long term business;
- (ii) balances of client accounts; and
- (iii) insurance premiums payable.

To allow time for existing insurance broker companies to adjust to the new disclosure requirement, the IA proposes that they will have to disclose the additional information in their audited financial statements starting from the financial year beginning on or after 1 January 2021. New insurance broker companies will have to disclose the additional information in their audited financial statements starting from the commencement date.

## **PUBLIC CONSULTATION**

11. The IA consulted the public on the draft Number Rules and the draft Broker Rules from 31 October 2018 to 31 December 2018 and from 23 November 2018 to 23 January 2019 respectively. The IA has taken into account the feedback received during the consultation when finalizing the two Rules and issued the consultation conclusions on 29 April 2019.

## **WAY FORWARD**

12. We aim to table the relevant subsidiary legislation before the Legislative Council for negative vetting on 22 May 2019.

13. Members are invited to note the proposals.

**Financial Services and the Treasury Bureau**  
**Insurance Authority**  
**May 2019**