

~~Un~~Licensed Selling,  
Referrals  
and Treating Customers Fairly

FOCUS  
IN  
CONDUCT



## CONDUCT IN FOCUS

Welcome to **Conduct In Focus**, edition number nine. In this edition we cover:

- ❖ The latest complaint statistics;
- ❖ The important role that insurance brokers perform in the life insurance market (and how to keep it that way) sharing our thinking on commission on life insurance products and the “treating customers fairly” principle;
- ❖ Best practices for general insurers in sending out renewal notices;
- ❖ A call to action for insurers and broker companies - join the SMS Sender Registration Scheme;
- ❖ The benefits of using insurer e-portal accounts to protect your interests as a policy holder;
- ❖ A defence of secretaries;
- ❖ How the Insurance Authority’s Market Conduct Division has become the Conduct Supervision Division and the Enforcement Division and why;
- ❖ An update on our disciplinary actions, our disciplinary processes and a call to get your CPD done; and
- ❖ From 23 September 2024 onwards, the Insurance Authority starts charging fees for processing insurance intermediary licensing applications and related notifications.

Enjoy!

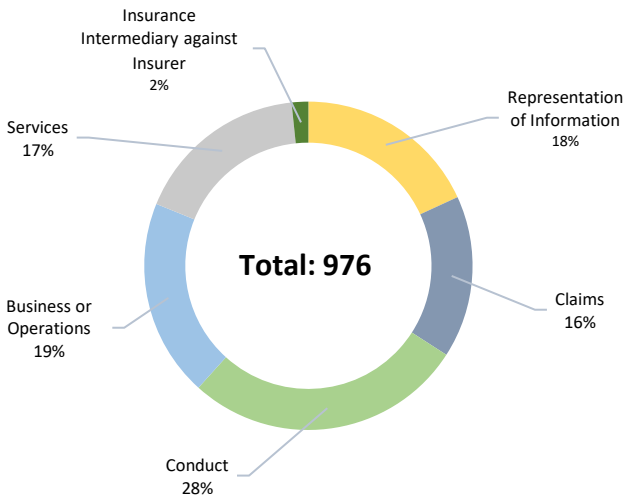
**Peter Gregoire**  
**General Counsel**  
**Head of Conduct Supervision**  
**Insurance Authority**

# Complaint Statistics

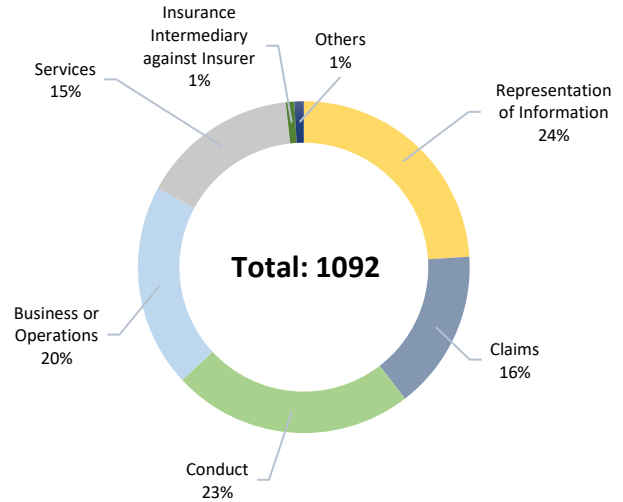
In this edition we present the complaint statistics for the full year of 2023 and the first half of 2024.

## 1 January to 31 December 2023 vs prior year

From 1<sup>st</sup> January to 31<sup>st</sup> December 2023



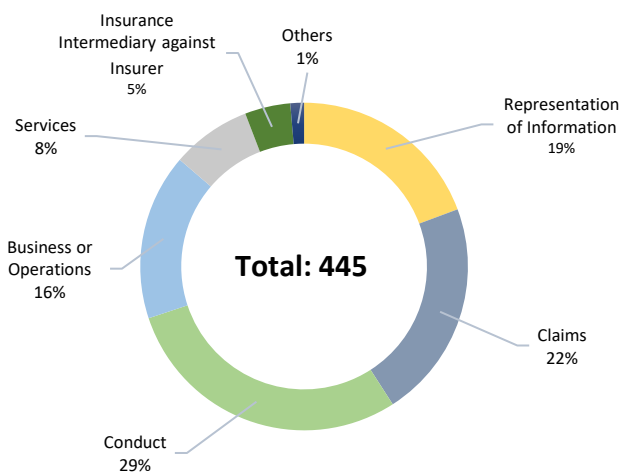
From 1<sup>st</sup> January to 31<sup>st</sup> December 2022



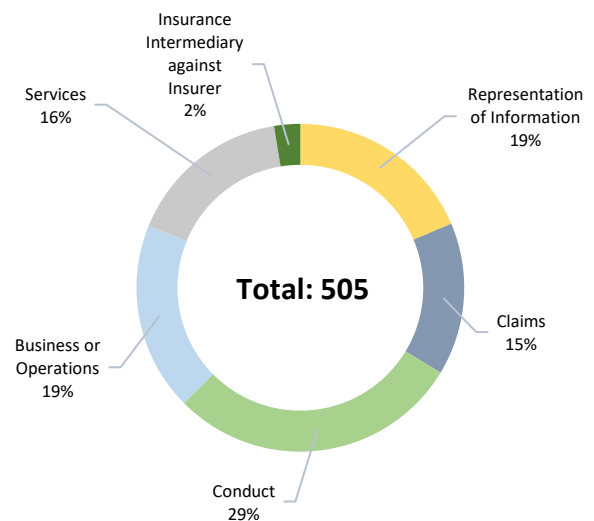
The IA received **976 complaints in 2023**, a reduction of 10.6% as compared to the year before. In terms of category, the most significant number of complaints were received in the category of “Conduct” and a reduction in the number of complaints on “Representation of information” is observed.

## 1 January to 30 June 2024 vs prior year

From 1<sup>st</sup> January to 30<sup>th</sup> June 2024



From 1<sup>st</sup> January to 30<sup>th</sup> June 2023



The IA received **445 complaints during the period from 1<sup>st</sup> January to 30<sup>th</sup> June 2024**, a reduction of 11.9% as compared to the same period last year. In terms of category, the most significant number of complaints were received in the category of “Conduct”. >>

# Complaint Statistics

## Explanation of Complaint Categories

**Conduct** – refers to complaints arising from the process in which insurance is sold, the handling of client’s premiums or monies, cross-border selling, unlicensed selling, allegations of fraud, allegations of forgery of insurance related documents, commission rebates and “twisting” (i.e. insurance agents inducing their clients to replace their existing policies with those issued by another insurer by misrepresentation, fraudulent or unethical means).

**Representation of Information** – refers to complaints relating to the presentation of an insurance product’s features, policy terms and conditions, premium payment terms or returns on investment, dividend or bonus shown on benefit illustrations, etc.

**Claims** – refers to complaints in relation to insurance claims. The IA cannot adjudicate insurance claims or order payment of compensation. It can, however, handle complaints related to the process by which claims are handled (e.g. delays in processing, lack of controls or weaknesses in governance, areas of inefficiency in the claims handling process).

**Business or Operations** – refers to complaints related to business or operations of an insurer or insurance intermediary (e.g. cancellation or renewal of policy, adjustment of premium, underwriting decision, or matters related to the management of the insurer, etc.).

**Services** – refers to complaints regarding insurance related servicing by insurers or intermediaries, such as complaints related to the delivery of premium notice or annual statement, dissatisfaction with services standards etc. ■





## Practice

### Insurance Broking – A much needed and valued profession. Let's keep it that way

#### (English Audio Version)

*“A crafty knave needs no broker”* quoted Ben Jonson in a play written in the year 1600.

Yes, insurance brokers and the profession of insurance broking have been around for a very, very long time.

Insurance agents are appointed by and can sell insurance on behalf of up to 4 authorized insurers (of which no more than two may be authorized insurers carrying on long term business). Insurance brokers, by contrast, represent policy holders and there are no limits to the number of insurers they can approach to secure insurance for their clients. This privilege brings with it additional responsibility for insurance brokers in the form of extra regulatory requirements that have to be met.

Firstly, licensed insurance broker companies (unlike agents, brokers must be structured as corporates) are subject to minimum capital and net asset requirements, must maintain professional indemnity insurance, can only receive client monies into a specially designated client account which they must regularly reconcile, and need to submit audited accounts and a special compliance report to the Insurance Authority (the “IA”) every year.

Secondly, when seeking out the right insurance for a client, insurance brokers are expected to compare offerings from a range of different insurers in the market. >

#### Conduct in advising on and arranging life insurance policies

We see this additional responsibility at play in the standards and practice of the Code of Conduct for Licensed Insurance Brokers and related Guidelines that insurance brokers must comply with when advising on and arranging life insurance policies, particularly those with saving and investment elements which come with additional complexity (and cost) when compared to pure insurance protection products.

These types of insurance policies result in policy holders either entering into long term premium payment commitments or contractually locking up their liquidity for many years, in return for insurance coverage and benefits that accumulate over such time (and which may form a vital piece of an individual's financial planning). In the case of participating insurance policies these may include both guaranteed-benefits (being set values which the insurer is obliged to pay) and non-guaranteed benefits where the value is not set but would depend on the insurer's own ability to make profit (making the choice of insurer, and its track record and reliability in fulfilling non-guaranteed benefits under insurance policies, a crucial element of the insurance broker's consideration, advice and recommendation to clients).

So that clients are positioned to make informed decisions when considering buying these types of life insurance policies, the scope of work an insurance broker would be expected to perform would include the following: >>

- **Considering the right type of insurance based on needs** - helping clients ascertain and assess their insurance needs and the type of life insurance products that would meet those needs based on what clients can afford;
- **Identifying the most suitable insurance policy offered by the most suitable insurer** – a broker will then, based on the client’s circumstances, identify suitable insurance policies from a range of insurers in the market. The ability to consider various insurance options from numerous insurers is what sets insurance brokers apart from insurance agents.
- **Providing objective and impartial advice and recommendation** - based on an objective and impartial analysis, the insurance broker will make a recommendation on the most suitable insurance policy to the client, comparing this with other insurance policies sourced. In particular, a broker’s advice could cover the following:
  - The broker will compare how different insurance policies from different insurers would perform in meeting the policy holders’ protection goals;
  - The broker will explain that the premium is generally higher for a participating policy than a pure protection policy because of the savings and investment element that come with the participating policy;
  - The broker will explain the difference between the guaranteed and non-guaranteed benefits in the policy;
  - The broker will explain the full downside risk of the non-guaranteed benefits (the value of which may be lower than even the pessimistic scenarios in the Benefit Illustration), and take account of the track record of the insurer in fulfilling non-guaranteed benefits under policies issued;
  - The broker will highlight the distribution between the guaranteed and non-guaranteed benefits (comparing this between the policies on offer);
  - The broker will explain how long the policy holder’s liquidity would be locked up in the policy, through the potential losses that come with early surrender or not continuing to pay premium.
- **Applying for and arranging the policy** – after assisting the client in making a fully informed decision on whether or not to proceed with an insurance purchase and from which insurer, the insurance broker would represent the client in arranging the insurance policy(ies) with the insurer.

The insurance broker would then continue to serve and advise clients on matters arising on the insurance policy(ies) arranged.

All of these services form part of the “regulated activities” that insurance brokers are licensed by the IA to perform under the Insurance Ordinance (Cap. 41), ➤

precisely because the technical representatives that work for a broker company satisfy the minimum educational standards, possess the professional qualifications and have the right character to be fit and proper to be granted such licence. »»



## Referrals - A traditional way of doing business. Not an excuse to avoid the basic tenets of professionalism

In sourcing clients it is not uncommon for insurance brokers (as with any other professionals) to receive referrals of clients from third parties who can vouch for the broker's expertise. This is entirely acceptable and a function of a market that trades on reputation and trust. Some referrals may be one-off from clients who have used the broker's services before. Other referrals may be part of a more structured arrangement with, for example, a non-insurance business that has built its own client base, the members of which may on occasion need insurance, at which point the client can be referred over to the insurance broker for the right advice and the sourcing of a suitable insurance.

Broker companies that rely on such structured referral arrangements in particular, however, need to take care. They have a responsibility to ensure the referrers (who are not licensed) only refer business (i.e. only introduce clients) to the broker company. Referrers must not themselves stray into carrying on unlicensed selling to clients themselves (e.g. discussing and giving advice on specific insurance products). Taken to extreme, this can have severe negative ramifications.

We have witnessed such negative ramifications threatening to surface in the life insurance market in Hong Kong. A hyper-competitive dynamic to capture Mainland China visitor business has led certain broker companies to warp the referral model. In doing this, they have emasculated their own insurance broking role and threatened to undermine standards of professionalism in the market. This was done principally by the broker >

companies concerned offering to pass on 90%+ of their commission to referrers, incentivizing the latter to carry on unlicensed selling to source clients. In turn the broker company's own operation was turned from one which was supposed to be providing proper advice on insurance to clients, into a mere conveyor-belt, rubber stamp for insurance applications sourced by referrers and a post-box through which such applications were submitted to insurers. The abuses this resulted in included (i) the broker company not serving clients in the manner that a broker is expected to; (ii) the unlicensed referrers using promises of illegal rebates to entice policy holders into buying decisions (distracting attention away from whether the policy is suitable to meet the client's needs); and (iii) the broker company enlisting the policy holder's to help to misrepresent to the insurer that the broker company performed all the selling in Hong Kong (when this was not the case). This put the validity of the insurance policies being purchased in doubt.

To prevent erosion of market standards and eliminate the risks posed to policy holders by this business model, on 10 April 2024 in a joint action with the Independent Commission Against Corruption, the IA took enforcement action against certain suspected perpetrators. By circular of 22 May 2024, the IA also provided its latest set of guidance on referral business ("Circular") in order to revert the market to the standards of professionalism that policy holders are entitled to rely on. >>



## Doing referral business properly – the three key principles

The Circular focuses on referrals of Mainland China visitors seeking to buy life insurance in Hong Kong. It makes clear that whilst referrals are permitted, they must be performed within certain limitations and under proper controls established by broker companies and insurers, which align with the following three principles: ▼



### Principle 1

Unlicensed referrers must not give any regulated advice to clients and must not carry on any regulated activities or sales activities.



### Principle 2

The broker company (and its technical representatives) must give all regulated advice to the client and carry on all regulated activities needed to arrange insurance policies for the client to the minimum standards required in the insurance regulatory framework.



### Principle 3

If any payments are to be offered to referrers by the broker company for introducing clients, such payments should be calibrated to be consistent with (i) the referrers not carrying on regulated activities (and not being incentivized to do so); and (ii) the broker company being properly resourced to provide regulated advice and perform regulated activities for the clients being introduced.

The Circular gives further detail on the controls, processes and approach the IA expects both broker companies and insurers which accept business from broker companies that focus on arranging life insurance policies for Mainland China visitors, to establish and implement.

At its core, the guidance in the Circular requires simply that insurance brokers serve their clients as insurance brokers are supposed to, and take responsibility for their referral business models. Indeed, insurance brokers advising clients from other jurisdictions who come to Hong Kong to source insurance, have to work harder to dispel any inapplicable pre-conceptions the client might have from the insurance market in their own jurisdiction which may differ from Hong Kong. This is vital to position clients to make an informed decision on their insurance purchases, which in turn is vital to maintaining the Hong Kong insurance market's status as a trusted place from which suitable insurance may be procured. The vast majority of licensed insurance brokers understand this. >

In protecting policy holders by cracking down on unlicensed selling, the IA in turn supports those hard-working professional licensed insurance intermediaries who play by the rules.

The Circular also calls on insurers to recognize that their intermediary management control functions are responsible for implementing controls and processes not only on their tied agency forces, but also on the insurance brokers that bring them business. Insurers and insurance brokers are business partners. Insurers should therefore seek to understand the referral models that the broker companies bringing them business, use to source clients, so as to be satisfied that they are aligned with the three-principles referenced in the Circular (and set out above).

Both broker companies and insurers that target Mainland China visitor business can expect these controls and processes to be the target of the IA's conduct inspections going forward. >>



## Treating customers fairly, commission structures and other relevant considerations

The inordinately high referral fees that have been incentivizing unlicensed referrers to sell by using unchecked rebates, were being enabled by front-loaded commission structures. A front-loaded commission structure is where all, or the vast majority of commission payable for a successfully arranged insurance policy is paid out to a broker company in the first year or first two years of the policy term (using this high upfront commission, brokers were paying high referral fees). As our Circular mentioned, these types of front-loaded commission structures merit further regulatory attention. 📌

The regulatory requirements on commission structures for long term insurance policies are principally set out in Guideline 15 (which applies to Class C (investment-linked assurance scheme) business) and Guideline 16 (for long term insurance policies other than Class C business). Both Guidelines, in line with the governing objective of treating customers fairly, make it the duty of authorized insurers to ensure that the remuneration structure for their intermediaries do not create misaligned incentives to engage in mis-selling or aggressive selling.

However, Guideline 15 adds an additional level of detail to this, by citing that paying an overly high commission in the initial years of the policy term may be the very thing to create such misaligned incentive. The notes accompanying Guideline 15 go on to state that authorized insurers should prorate the commission to be paid out for regular pay ILAS policies to ensure better alignment between the interests policy holders and licensed insurance intermediaries e.g. no more than 50% of the total commission payable for a regular payment ILAS policy is to be paid upfront, with the rest to be spread evenly over a minimum of 5 years (or the premium payment term if shorter). Such additional prescriptive detail, however, is not included in Guideline 16 in relation to non-Class C long term insurance products (such as participating insurance policies). This has resulted in the commission structures for participating policies being skewed towards the first year of the policy term and it is this which enabled the unlicensed selling and use of rebates to surface (precisely through the misaligned incentives that Guideline 15 cautioned against). ➤

Is it not, then, time to align the requirements on commission structure in Guideline 16 with those in Guideline 15 so that the same requirements apply across all long term policies? Similar requirements already exist in other jurisdictions (Singapore and Malaysia being obvious examples in the Asia region) so this is an obvious direction of travel in which our regulatory framework should be heading.

Although the enforcement action taken has brought this issue into focus, it is not new. We already touched on it in our article on [‘The “Treating Customers Fairly” Principle in the insurance regulatory framework’](#) in our [8<sup>th</sup> edition of Conduct in Focus](#), explaining that the role of regulation is to correct certain imperfections arising from the market dynamic that create misalignment between the interests of suppliers and buyers of insurance. Where these imperfections exist and misalignment of interests is the result, conduct problems can arise and there is a risk of treatment of customers becoming unfair. That is the point at which regulation must intervene (as it has done with Guideline 15) to bring interests back into alignment.

Such intervention, however, should also be carefully considered, not only in isolation but also alongside other relevant issues that merit attention (such as benefit illustrations on long term policies with savings and investment elements, information to be provided to policy holders on these, and governance around participating insurance policies more generally). Good regulation, after all, is only as effective as it is practical to implement. Hence these matters will be the subject of engagement with all stakeholders concerned in the coming months. ■

## Commission Structure Design





## General Insurance – Best Practices on Renewal Notices

### (English Audio Version)

The Insurance Ordinance and the rules, guidelines and codes of conduct issued by the Insurance Authority under it (which collectively make up “the insurance regulatory framework”), regulate and impose requirements on insurance companies and licensed insurance intermediaries on how they conduct their insurance business and advise, arrange and fulfil obligations under insurance policies sold to policy holders. The insurance regulatory framework does not, however, impose obligations on the public to buy insurance. For the most part, although highly recommended, the decision on whether or not to buy insurance is a voluntary one.

There are, however, certain exceptions to this that emerge from legislation on other topics of public interest that make it compulsory for insurance to be purchased by members of the public in certain situations (known as “compulsory insurance”). The two main compulsory insurances in Hong Kong can be found in the areas of employment and driving.

The Employees’ Compensation Ordinance (Cap.282) compels employers to have an Employee Compensation Insurance Policy in force in respect of the employees that it employs (so that if the employee is injured in a workplace accident, for which the employer is liable, there is valid insurance protection in place to pay compensation). An employer who fails to comply commits a criminal offence and may be subject to a fine and imprisonment for up to 2 years.

The Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap.272) prohibits the use of a vehicle on the road unless there is in force a Third Party Risk Insurance Policy. Again, failure to comply is a criminal offence risking exposure to fine, disqualification from holding/obtaining a driver’s licence and imprisonment of up to 12 months. >

### ***Recent issues with renewals for compulsory insurance policies***

Whilst the nature of compulsory insurance is to impose the primary obligation on the employer or vehicle user to buy the insurance, the insurance regulatory framework imposes obligations on authorized insurers which offer these types of insurance to treat customers fairly, in offering, arranging and servicing such policies (per section 10 of Guideline 10 on Corporate Governance).

In recent months, cases have been brought to the IA’s attention whereby employers have been charged and fined for not having a valid Employee Compensation Insurance Policy in place at the time of the Labour Department’s inspection of the employer’s place of business. Whilst it was the employer’s primary responsibility to make sure it had purchased the policy, one of the root causes of the failure was the omission of the employer’s servicing insurance agent to pass on the renewal notice for the insurance policy to the employer (resulting in the employer not renewing the policy in a timely manner).

The authorized insurers which issued the renewal notices, it turned out, had the practice of only issuing the notices to their insurance agents (rather than to the policy holders directly) and expected those agents to distribute them to the policy holders concerned.

Whilst it is the case that, under section 90 of the Insurance Ordinance, licensed insurance agents when carrying on regulated activities have regulatory duties to act fairly and in the best interests of policy holders or potential policy holders, it remains the case that, as a matter of law, they are agents of the authorized insurers which appoint them. If an authorized insurer sends a renewal notice to its insurance agent to deliver onto >>



the policy holder, that renewal notice cannot be said to have been sent to the policy holder, until the agent delivers it. (Until it is delivered to the policy holder, it is at best an internal communication between the insurer and its agent).

With the principle of “treating customers fairly” in mind, we consider that authorized insurers should adopt better practices for issuance of their renewal notices (particularly for compulsory insurance coverages). We set out these best practices below: ✓

# Best Practices

## **Best Practice 1: Send the policy renewal notice and relevant documents directly to policy holders, unless a clear exception applies**

Authorized insurers writing compulsory insurance coverages should send renewal notices **directly** to policy holders, to notify them when the current policy is expiring and to renew the policy (if an offer of renewal is being made). If an offer of renewal is not being made, then a non-renewal notice should be sent to the policy holder directly (well in advance of the expiry date – see best practice 2). Even if the authorized insurer has a tied agency force, relying solely on insurance agents to distribute the renewal notices is not best practice: certainly copy the agent in, so he or she can follow up (see best practice 3 below), but the best practice is to send the notice directly to the policy holder. In the case of compulsory insurance policies, this would facilitate the policy holder’s duty to comply and achieve the public protective objective of making these insurances compulsory. In the case of all insurances, this would bring attention to policy holders of the need to renew, so they have seamless insurance protection in place enabling the insurance industry to perform its vital social function.

An exception to sending renewal notices out to policy holders directly would only be justifiable if (a) the policy holder is represented by a broker company (broker companies unlike insurance agents, at law, do represent the policy holder); (b) the documented terms of dealings between the insurer and the broker company make clear that the broker company will deliver the renewal notice to the policy holder; and (c) it is clear that the broker company’s appointment by the policy holder remains current at the time the renewal notice is to be issued. >

## **Concluding remarks**

The above best practices are principally for authorized insurers carrying on general insurance lines of business (which include providing compulsory insurance) to consider and follow. Many insurers already follow these obvious principles as they are a means of putting the treating-customers-fairly-principle into practice. For those that do not, we suggest you start bringing your practices into line. ■

## **Best Practice 2: Send out renewal notices sufficiently in advance of policy expiry**

This is obvious, but always worth emphasizing. Insurers should send out renewal notices to policy holders sufficiently in advance of the existing policy expiry date. The same goes for notices of non-renewal. Customers must be given sufficient advance time prior to expiry to source a different cover.

Insurers who “*target*” to do this on, say, only 7 days’ written notice (because the black letter of their insurance policies permit them to do this) bring disgrace on the insurance market. Anything less than six weeks would raise question marks about whether the policy holder is being treated fairly (and the IA may have to consider whether the insurer is carrying on business in a way likely to be prejudicial to policy holders, per the definition of “misconduct” in the Insurance Ordinance).

## **Best Practice 3: keep servicing insurance agents (and, if applicable, broker companies) informed of renewal notices going to policy holders so they can follow up as necessary**

Sending renewal notices direct to policy holders, does not mean cutting the servicing agents (or broker company, if the renewal notice has been sent directly to the policy holder) out of the picture altogether. On the contrary, best practice would include copying them in or informing them that the renewal notice has been sent so that they can assist customers in their policy renewal decision. ✓



## Fight against Crime and Scams

(English Audio Version)

Scams are becoming more prevalent, and perpetrators are using different methods to entice victims through phishing or phone calls. Such illegal conduct affects all industries and communities in Hong Kong. According to the statistics issued by the Hong Kong Police (the “HKP”), there was a notable surge in deception cases. Specifically, phishing scams accounted for 4,322 cases, making it the second most prevalent type of fraudulent crime.<sup>1</sup>

On 27 March 2024, the Insurance Authority (the “IA”) and the HKP entered into a Memorandum of Understanding where we are jointly committed to work together to combat crimes. However, together as an industry, for each authorized insurer and licensed insurance intermediary, can also work together to combat such illegal activities and create a safer environment for the community. >

## SMS Sender Registration Scheme

Scammers attempt to send SMS messages containing unknown hyperlinks or QR codes that, if clicked, can lead to the disclosure of personal information, bank account details and passwords. To combat fraudulent calls and SMS messages, the Office of the Communications Authority launched the SMS Sender Registration Scheme (the “Scheme”) on 28 December 2023. Under the Scheme, only companies or organizations registered under the Scheme can send SMS messages with the prefix “#”. By ensuring that messages are identified with the prefix “#” in their SMS Sender IDs, members of the public can easily verify the authenticity of the senders via <https://app2.ofca.gov.hk/apps/ssrs/onlineEnquiry?lang=en>, thereby reducing the risk of falling victim to scams or phishing attempts.

The IA has already joined the Scheme. Insurance companies and brokerage firms are strongly encouraged to do the same.

**So don't delay! Join the Scheme today! >>**

<sup>1</sup> HKPF. (2023). 2024-02-06 Law and order situation in Hong Kong in 2023 (with photos). Press Release. [https://www.police.gov.hk/ppp\\_en/03\\_police\\_message/pr/press-release-detail.html?refno=P202402060003](https://www.police.gov.hk/ppp_en/03_police_message/pr/press-release-detail.html?refno=P202402060003)



## Scameter+ App

In addition, the HKP has launched a Scameter+ App (“Scameter+”), which is a one-stop scam and pitfall search engine. Scameter+ helps the public identify frauds and online pitfalls. When the public encounters suspicious calls, online sellers, friend requests, job ads, investment websites, etc., they can enter the platform account name or number, payment account, phone number, email address, URL, etc. to assess the risk of fraud and cyber security. Details of the Scameter+ can be found at [cyberdefender.hk](http://cyberdefender.hk) >



## Insurance Industry – Beware of Scammers

The insurance industry is also susceptible to scammers. The HKP has received reports of scammers pretending to be staff of insurance companies who offer assistance to renew the victims' insurance policies. If the victims fall prey to the scam and reply that they do not take out such insurance policies, victims are required in some cases to pay funds for cancellation of the policies, or they would be asked to provide bank accounts details for cancellation of the policies. However, the scammer would then claim the victims' bank accounts were frozen and they would need to remit funds to the bank account of the scammer to unfreeze the bank accounts.

In another situation, the scammers impersonate public officers and inform the victims that they are under investigation, and security must be provided to assist with the purported investigation. The scammers would ask the victim to surrender their insurance policies or withdraw the policy value from the policies as a form of security. This is of course a ludicrous scam, but alas, elderly people have fallen prey and have lost a substantial amount of their savings.

Remember, scammers are becoming sophisticated in their tactics. Taking proactive action can help protect insurance companies, brokerage firms, and their clients from potential financial losses and identity theft. We strongly urge the insurance industry to participate in the Scheme and implement internal processes (even just a call to the policy holder to verify if they are truly intending to surrender or withdraw their funds) to prevent criminals from infiltrating the insurance industry. Alternatively, inform the policyholder to call 18222 to enquire if they are the subject of a scam. ■

**Let's join hands in creating a more secure and trustworthy insurance industry and community!**





## Policy Holder Corner

### Insurance Online Self-Service

#### (English Audio Version)

The acceleration of insurers offering online self-service portals for policy holders to stay on top of their insurance needs, access benefits and make claims when needed, is a move as inevitable (with the broad shift of society online) as it is welcomed (at least by those who embrace technology). We certainly see there are benefits to this from the policy holder protection perspective.

Insurance serves as a vital part of any personal financial plan. It helps underpinning resilience to the risk of the unexpected (health problems, accidents, property damage etc), assists to provide for dependents in the event of early demise of the main breadwinner in a family, and builds an element of wealth for the future to mitigate against the prospect of outliving one's savings.

Insurance, then, is not just a one-off decision to buy but a dynamic aspect of any financial plan that needs to be reviewed regularly to ensure the policy coverage, terms and other conditions remain in step with a policy holder's changing needs throughout his or her lifetime. Whether it is updating one's correspondence address, ensuring one's beneficiaries are properly recorded or simply recalling what coverages one has in place, having access to an online portal account serves to empower policy holders to keep on top of their insurance needs and ensure the subject of adequate insurance remains at the forefront of their minds.

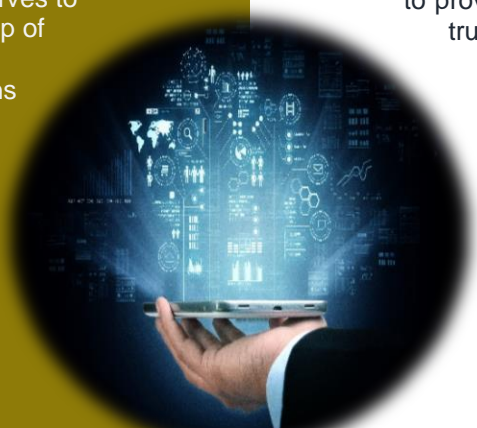
Online portals also increasingly enable policy holders to submit claims or access other benefits under their policies. Often this is linked to increased speed of turnaround time by insurers, a matter always to be encouraged. >



Another (sometimes uncommented on) benefit of online portals can be seen in some of our enforcement and complaint work. Policy holders through accessing their portals have quickly been able to identify problems which have arisen, enabling them to be surfaced and quickly reported and rectified. For example, situations where a policy holder has paid money onto an insurance agent, but the agent, for whatever reason, has not paid the money onto the insurer causing the coverage to be recorded as lapsed, can be quickly spotted. Indeed, the online portal offers a convenient channel to policy holders to make enquiries about the current status of their policies (and the insurer to address the matter with the agent and make reports to the Insurance Authority if necessary). Similarly, we have seen cases where an insurance agent purchased a policy for the policy holder (unbeknownst to the policy holder) for the purpose of meeting internal targets with the policy holder being alerted of this through accessing her online portal account

([https://www.ia.org.hk/en/infocenter/press\\_releases/20240312.html](https://www.ia.org.hk/en/infocenter/press_releases/20240312.html)).

Online portals, therefore, can be an important policy holder empowerment tool and serve as an example of the insurance sector's commitment to using technology to provide transparency and continually build trust with those it serves. Policy holders can certainly use this to their advantage. ■







## In Defence of Secretaries

### (English Audio Version)

A secretary is an individual employed in an office to assist with correspondence, make appointments and carry out administrative tasks. Secretaries often become the most reliable people to work with, the go-to person when anyone wants to know how to claim expenses, organize business trips, how to use the photocopier, find out who can fix the air-conditioning and help you share (or unfreeze) your screen on a Zoom call.

It is not uncommon for insurance agents to employ secretaries. As the insurance regulator we know this, because we have seen incidents where certain insurance agents seek to rely on secretaries, not only for the vital administrative tasks mentioned, but also for another function that a secretary should never be asked to perform. That of, scapegoat.

A scapegoat is someone who is blamed for something that someone else has done. Some insurance agents, when accused of misconduct, completing an application for a licence incorrectly, or similar act that may adversely impact their fitness and properness in the eyes of the regulator, think they can simply blame their secretary for the culpable act to avoid any disciplinary consequences (even when the evidence obviously points to the agent).

This thinking is as disreputable as it is misguided, for several reasons. >

### First

Standard and Practice 3.1(b) of the Code of Conduct for Licensed Insurance Agents states as follows:

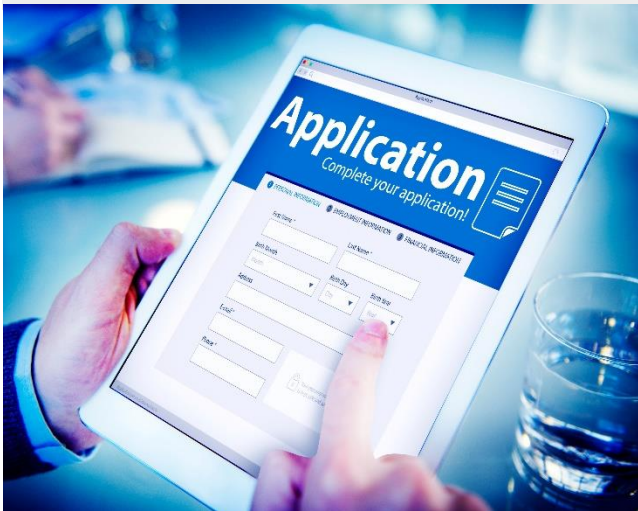
*“Where a licensed insurance agent employs or engages another person to provide support to the agent in its carrying on of regulated activities, the agent should ensure the person has the integrity and competence to discharge the duties for which the person is employed or engaged and supervise that person diligently in performing such duties. In so far as the person’s work impacts the regulated activities carried on by the agent, the agent is and remains responsible for such activities.”*

As such, in blaming a secretary, the insurance agent (in being responsible for the secretary’s actions) is merely inviting the IA to consider whether the agent (in addition to the misconduct or other act of which he stands accused) is additionally culpable for breaching the above-quoted provision in the Code of Conduct (which may serve to increase the level of disciplinary penalty). >>



## Second

If the insurance agent is seeking to suggest that the secretary had filled in the licence application for him and had omitted to include certain information the agent had given the secretary, then the agent is merely displaying a lack of fitness and properness to be able to complete an application form himself (which he himself is supposed to complete and confirm the truth of all information stated therein). If he cannot be trusted to complete a licence application being submitted to a regulator (the IA would obviously ask itself) can he really be trusted to assist potential policy holders complete applications for insurance? >



## Third

A propensity to seek to shift blame onto someone who is there to assist, reflects negatively on a person's sense of fairness, character and integrity, being traits which a regulator must take into account in considering the fitness and properness of the agent. A secretary, after all, is a person and it begs the question of whether someone who is capable of treating people like this, has what it takes for a career in insurance which is, at its core, a people-business. >



Sometimes secretaries are not used as scapegoats, but to perform tasks that insurance agents themselves should be performing. It is still not unknown for an insurance agent occasionally to ask his secretary to do his CPD courses for him. This, of course, results in the secretary acquiring more up to date knowledge about insurance than the boss! Further, as a consequence, the insurance agent himself is not only in breach of the CPD requirements, but of misleading acts that would likely result in even more adverse consequences for his licensing position. So don't do this!



All in all, then, if you are the type of person that thinks it is acceptable to blame a secretary, for your own shortcomings (or getting a secretary to do regulatory tasks which you yourself should be doing) we wish you the best of luck.....in another industry, because the insurance industry is not for you! ■

*This article is dedicated to all the hard-working secretaries in the Hong Kong insurance industry who play a vital role in maintaining its position as an international finance centre.*



## The Conduct Supervision and Enforcement Divisions

“*When 2 become 1*” was a Spice Girls hit song from 1996. If we were to take the name of that song and change it slightly to “*When 1 becomes 2*” it would perfectly describe the organizational change the Insurance Authority (the “IA”) has recently implemented.

As from 1 June 2024, the Market Conduct Division has been reborn into two separate divisions, namely the Conduct Supervision Division and the Enforcement Division.

### The Enforcement Division

With the IA having taken its 50<sup>th</sup> disciplinary action<sup>2</sup> earlier on this year, we decided that our enforcement function has reached a level of maturity, such that now it should be a standalone division, bringing it structurally into line with other financial services regulators both in Hong Kong and across the globe. This change reinforces (and elevates) the importance of the IA’s enforcement function in underpinning the regulatory standards and practices with the appropriate and proportionate threat of deterrence through disciplinary actions and prosecution, subject always to the principles of fair procedure. This is of integral importance in continually reinforcing the insurance market with confidence and trust.

### The Conduct Supervision Division

At the same time, the emergence of the Conduct Supervision Division demonstrates the IA’s emphasis on a “prevention is better than cure” approach. The Conduct Supervision Division covers the work of:

- licensing insurance intermediaries to ensure they are fit and proper;
- carrying on inspections and supervision of authorized insurers and licensed insurance broker companies and agencies to assess the adequacy of their conduct controls, processes and the presence of a positive conduct culture. Particular focus in this respect is placed on the intermediary management control function of insurers;
- inspecting and assessing the adequacy of anti-money laundering and counter-terrorist financing controls and processes implemented by insurers and insurance intermediaries carrying on long term business; and
- handling complaints in a fair and efficient manner.

### Two Divisions, one objective

Even though we are now two separate divisions, we will continue (like the Spice Girls) to be in perfect harmony in singing from the same song-sheet of policy holder protection and doing our utmost to reinforce the insurance market with trust and confidence so that it develops sustainably and thrives in the contribution it makes to Hong Kong’s position as an International Finance Centre. In our regular meetings with the market on conduct matters, you can continue to expect to see us both represented. ■



<sup>2</sup> Not including the thousands of administrative CPD-related disciplinary actions taken

## Disciplinary Update

The Insurance Authority (the “IA”) took its first disciplinary action in May 2021. Almost exactly three-years on from this, in May 2024, we took our 50<sup>th</sup> disciplinary action (excluding CPD related disciplinary actions). In this article, we set out how this experience >

is enabling us to hone our disciplinary processes and strategies, so as to ensure our enforcement actions are fairly and efficiently taken and continue to underscore the insurance regulatory framework with the correctly calibrated threat of deterrence. >

### Enhancing the Disciplinary Panel and introducing a Disciplinary Executive Process

In the first phase of enforcement development, the vast majority of our (non-CPD) disciplinary actions were taken by Disciplinary Panels from the pool of professionals that make up our Disciplinary Panel Pool (“DPP”). These Disciplinary Panels considered and decided all range of cases, from previous self-regulatory regime false certificate cases, to major misappropriation cases, to cases based on deficiencies in insurer’s governance and controls.

Based on our now developed experience, feedback received from the initial batch of DPP members, and research on disciplinary processes from conduct regulators in other jurisdictions, the IA has made certain changes to its maturing disciplinary processes.

**Firstly**, as from 1 October 2023, the IA has expanded its DPP to include a wider array of expertise and experience, so that Disciplinary Panels can be deployed to focus on cases which are more complex and serious in nature, involve multi-parties or are particularly contested.

**Secondly**, we have also introduced a Disciplinary Executive Process (“DEP”) for deciding homogenous cases of a lesser level of seriousness, where the disciplinary action to impose is either agreed or follows a set precedent from previous Disciplinary Panel (or self-regulatory regime) cases. The DEP is headed by the Chief Executive Officer, Head of Conduct Supervision, and Head of Enforcement as decision makers and covers the following types of cases: >

- (a) Matters where the proposed disciplinary action is a private reprimand;
- (b) Matters concerning non-compliance of Continuing Professional Development (CPD);
- (c) Matters arising from a disciplinary action taken by another regulator that impugns the fitness and propriety of the regulated person;
- (d) Contraventions that occurred before 23 September 2019; and
- (e) Disciplinary action taken by way of an agreement under section 41S or section 84 of the Insurance Ordinance (Cap.41).

The DEP procedure has built within it the same level of fair procedure as the Disciplinary Panel process and is similar to it. A Notice of Proposed Disciplinary Action (“NPDA”) outlining the case, evidence and proposed disciplinary action will be issued to the subject person as usual. The subject person will have the opportunity to provide written or oral representations in response to the NPDA, directly to the decision maker. The decision maker would have had no involvement whatsoever in settling the NPDA, but will ultimately make the decision after taking account of all information on the case, including the representations made by the subject person. >>



## Review and looking ahead

The table at the end of this article gives an overview of the disciplinary actions taken by the IA in the first 5 months of 2024.

During this period the prominence of disciplinary actions for mishandling or misappropriation of client's premium payments is telling. The IA has zero tolerance for such conduct, not only because of the severe adverse impact to the interests of policy holders and potential policy holders these cases result in, but also because it is these types of reprehensible actions that do most to risk undermining trust more widely in the insurance market. The punishment must, therefore, be sufficiently severe to serve as a deterrent.

It is for this reason that in May 2024, the IA imposed a 14-year prohibition on an agent who had >

misappropriated premium amounting to over RMB1.6 million from various policy holders. This was an SRO-era related case and the IA was limited by the precedent from that period. To combat such behaviour going forward, however, the IA will not hesitate under the new regime, to impose the severest disciplinary action (i.e. life-ban) against the licensed insurance intermediary to reflect its abhorrence of such disgraceful misconduct. The IA will also name the intermediary in the press release and make it a matter of public record.

The recent Memoranda of Understanding we have signed with the Independent Commission Against Corruption and the Hong Kong Police, also enhance our close cooperation with these law enforcement agencies in handling such cases with criminal elements. <

## Got your CPD done? Will it be 100% compliance?

At the time of writing, the CPD assessment period which ran from 1 August 2023 to 31 July 2024 has just ended. Have you got your CPD done? If not, you should know what the penalties are by now.

Some individual licensees still seem to be under the mistaken impression that they will not be disciplined, or they would be only fined, if they rectify any shortfall in CPD points as at 31 July, by 31 October. This is not exactly the case so let us make the position clear. **If an individual licensee has a shortfall of 8 hours or more as of 31 July 2024, he/she will not only be fined for HK\$600 per hour of shortfall but his/her licence will also be suspended for a minimum of 3 months.** It is only if the individual licensee's shortfall is less than 8 hours as of 31 July 2024 and the licensee has rectified the shortfall by 31 October 2024, that a suspension can be avoided (although the licensee will still be fined).

In November 2023, we implemented a process to enable individual licensees who failed to comply with the CPD requirements, to accept the penalty imposed on them through entering into an agreement under section 84 of the Insurance Ordinance ("Section 84 Agreement") via their appointing principals. Up to mid-May 2024, we received nearly 300 Section 84 Agreements. In the >

case of active licensees who have not been disciplined for CPD non-compliance for previous assessment periods and who did not sign the Section 84 Agreement, we have instigated the formal disciplinary process by issuing NPDA to them.

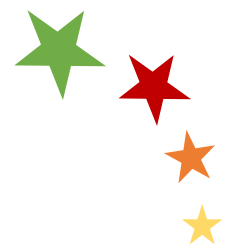
We reiterate: compliance with CPD hours is a basic tenet of any profession and the insurance industry should aim for 100% compliance, to demonstrate that it is 100% professional. Principal insurers – if one of your active licensees who has failed to comply with CPD hours is refusing to facilitate the disciplinary process through entering into a Section 84 Agreement without valid reason, are you really satisfied with that person continuing to represent your company?

In August 2024, we are enhancing the Insurance Intermediary Connect to facilitate the generation of Section 84 Agreement by principals and payment of fines by non-compliant licensees.

Of course, if you really want to disappoint the IA, you can do so by making sure we have wasted this money and work! How? By achieving 100% CPD compliance across the market! >>

Your Target is

# 100% CPD Compliance



## Summary of disciplinary actions taken by the IA from January to May 2024

Type of Misconduct	Number of licensed insurance intermediaries disciplined	Type of disciplinary action imposed by the IA
Non-compliance with CPD requirements	>300	<ul style="list-style-type: none"> <li>Disciplined in accordance with the CPD Penalty Framework</li> </ul>
Use of false academic certificate	4	<ul style="list-style-type: none"> <li>Prohibited from applying for a licence for 1 year and 11 months to 3 years</li> </ul>
Mishandle or misappropriate client's premium payment or principal's property	4	<ul style="list-style-type: none"> <li>Prohibited from applying for a licence for 34 months to 14 years</li> </ul>
Unauthorized policy application and forgery of client's signature	3	<ul style="list-style-type: none"> <li>Prohibited from applying for a licence for 12 months</li> <li>Suspension of licence for 7 months to 10 months</li> </ul>
Failing to handle policy application with due care and diligence	1	<ul style="list-style-type: none"> <li>Pay a pecuniary penalty of HK\$7,000</li> </ul>
Insufficient internal control on technical representative (broker) in handling policy application	1	<ul style="list-style-type: none"> <li>Pay a pecuniary penalty of HK\$37,270</li> </ul>
Fitness and Properness (Disciplinary action by another regulator)	1	<ul style="list-style-type: none"> <li>Prohibited from applying for a licence for 3 years</li> </ul>
Misrepresentation	1	<ul style="list-style-type: none"> <li>Suspension of licence for 15 months</li> </ul>



## 23 September 2024 – the day the IA starts charging application fees for intermediary licences and related notifications

All good things must come to an end, and 22 September 2024 marks the end of the 5-year fee-free period for the insurance intermediary licensing regime.

Yes, from 23 September 2024 onwards, the IA starts charging fees for processing insurance intermediary licensing applications and related notifications. The Insurance (Prescribed Fees) Regulation (Cap. 41B) has been updated to enable this.

We have set out the detailed arrangements for this in our circular of 31 July 2024, which you can find [here](#). >

The final fee structure formulated takes account of feedback from all stakeholders concerned during the consultation we conducted and we would like to thank the industry for its engagement on this issue and the practical suggestions made. As the circular makes clear, this additional income stream will help sustain the IA's capacity over the long term to perform its public functions of regulating the insurance industry to promote the general stability of the industry and protect policy holders. In doing this, we commit to continuing to develop our work in: <

- upholding standards of professional conduct in the insurance market;
- administering an effective, efficient and technology-based licensing process focusing on the fitness and propriety of insurance intermediaries operating in the insurance market;
- examining (through inspection and conduct supervision) corporate governance controls and processes of insurers and the level of support they provide to their appointed insurance agents and in their dealings with insurance broker companies;
- ongoing inspection and supervision of insurance broker companies and insurance agencies;
- offering practical training to insurance practitioners on regulatory matters;
- embarking on policy holder education campaigns to underpin the importance of insurance in society and empowering consumers to make informed insurance buying decisions; and
- robustly defending the integrity of the insurance market through proportionate enforcement (whether disciplinary action or prosecution) against unlicensed selling and other activities which risk harm to policy holders. >>

*Licensing Fees*



The start of the fee-charging era also represents the completion of the full 5-year transition period of the new licensing and intermediary supervision regime under the auspices of the IA. During these five years, we have come a long way. We have introduced the Codes of Conduct for Licensed Insurance Agents and Licensed Insurance Brokers and the accompanying rules and a suite of updated Guidelines. We have rolled out Insurance Intermediaries Connect (IIC) and witnessed its adoption rate rise from 0% to over 96%. We have completed the mammoth task of processing the first applications made by the 100,000+ deemed licensees. Through the Non-Compliance CPD league table we have driven down the number of CPD non-compliances to negligible levels. We have pioneered the provision of e-CPD courses on Business Ethics and Anti-Money Laundering procedures and we have run training for Key Persons In Control Functions for Intermediary Management and Board of Directors on Conduct issues. We have established our disciplinary panel process and taken our first 50 disciplinary actions on conduct related matters. We have defended the integrity of the licensing regime by cracking down on unlicensed regulated >

activities. Through this publication, we have communicated our expectations on matters ranging from complaints to claims handling, from orphan policies to pop-up booths, and from premium collection to the discipline of self-reporting.

All of this we have done with the aligned objectives of protecting policy holders, underpinning the insurance market with integrity and reinforcing the professionalism of the industry with a practical regulatory framework. Why do we do this? Because insurance is vital. No building can be built, no aircraft can fly, no car can be put on the road, no person can be employed, without insurance. The contractual promise of insurance should be at the heart of every individual's financial plan.

Insurance imbues society with resilience and the insurance market performs a vital role in Hong Kong because of this. And we are proud to be your regulator.



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