

Insurance Summit 2017

New Regulatory Landscape for Insurance Intermediaries

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New Statutory Licensing Regime for Insurance Intermediaries

- A. Phase 3 Commencement of Insurance Companies (Amendment) Ordinance 2015
- B. Regulated Activities
- C. Specified Exemption & Exceptions
- D. Licensing Requirements
- E. Ongoing Obligations of Intermediaries
- F. Current Preparatory Work

Phase 3 Commencement of Amendment Ordinance

- Implementation of new statutory licensing regime for insurance intermediaries
- IA will become the statutory body to handle licence applications, conduct inspections and investigations, and impose disciplinary sanctions.
- Insurance Appeals Tribunal (IAT) will handle appeals to IA's disciplinary and other specified decisions about insurance intermediaries.
- Any person carrying on regulated activities will be required to be licensed by IA, unless exempted.
- Licensees will have to comply with requirements under IO and codes/rules/regulations/guidelines issued by IA
- Target date - mid 2019

Phase 3 Commencement of Amendment Ordinance

- Intermediaries validly registered with SROs immediately before commencement of the new regime are deemed to be licensed for 3 years to allow sufficient time for applying for formal licences.
- Online Register of Licensed Insurance Intermediaries (including deemed licensees) on IA's website.
- Outstanding complaint and investigation cases in relation to former insurance intermediaries and deemed licensees will be handled by IA.
- Outstanding appeal cases lodged by former insurance intermediaries and deemed licensees will be handled by IAT.
- SROs' rules and regulations (Applicable Rules) continue to be applicable to the above outstanding cases.

Phase 3 Commencement of Amendment Ordinance

5 Types of Licensees

Firm	Individual
<ol style="list-style-type: none">Insurance Agency<ul style="list-style-type: none">Sole proprietorshipPartnershipLimited companyInsurance Broker Company<ul style="list-style-type: none">Limited company only	<ol style="list-style-type: none">Individual Insurance AgentTechnical Representative (Agent)Technical Representative (Broker)

Regulated Activities

S.64G provides that a person must not carry on or hold out to carry on a regulated activity –

- in the course of the person's business or employment, or for reward;

unless the person

- is a licensed insurance intermediary; or
- is otherwise exempted.

Regulated Activities

Schedule 1A

- negotiating or arranging a contract of insurance
- inviting or inducing, or attempting to invite or induce, a person to enter into a contract of insurance
- inviting or inducing, or attempting to invite or induce, a person to make a **material decision**
- giving **regulated advice**

Regulated Activities

Material Decision & Regulated Advice

A **decision made (material decision) or opinion given (regulated advice)** in relation to the following matters about an insurance contract.

- making of an application or proposal
- issuance, continuance or renewal
- cancellation, termination, surrender or assignment
- exercise of a right
- change in term or condition
- making or settlement of an insurance claim

Regulated Activities

Regulated Advice

Opinion vs Information

- Regulated advice requires an element of opinion (not merely information).
- Dictionary meaning of opinion and information
 - Opinion - view, judge, appraisal, thought, belief, idea etc.
 - Information – facts or details about something
- IA will elaborate the requirements in a guideline and/or FAQ.

Regulated Activities

Specified Exemption & Exceptions

- Authorized insurer (S.78)
- Professional (S.123(1)(a)-(c) & (e))
 - Counsel/Solicitor/Certified public accountant/Actuary
- Trust company (S.123(1)(d))
- Publication, broadcast and website (S.123(1)(f))
- Loss adjuster (S.123(1)(g))
- Group company (S.123(1)(h))
- **Staff of an insurer or intermediary responsible for clerical or administrative duties (S.123(2))**
- Staff of a reinsurer or captive insurer (S.123(3))
- **Staff of an insurer responsible for underwriting or handling of claims (S.123(4))**

Exception

Clerical & Administrative Staff of Insurers & Intermediaries

S.123(2) provides that s.64G does not prohibit a person acting on behalf of an authorized insurer or insurance intermediary from carrying on a regulated activity if carrying on that activity only involves the discharge of **clerical or administrative duties**.

Example :

- Mere preparation of an insurance policy, involving duties such as data input, and printing and sending of the policy, likely falls within “clerical or administrative” duties.

Exception Underwriting & Claims Handling Staff of Insurers

S.123(4) provides that s.64G does not prohibit an employee of an authorized insurer from carrying on a regulated activity if that activity only involves the discharge of any of the following duties in the course of employment to –

- a) **make an assessment of the risks** to be accepted by the insurer under a contract of insurance;
- b) **determine the terms and conditions** of a contract of insurance to be issued by the insurer;
- c) **process any claim** lodged under a contract of insurance issued by the insurer.



Licensing Requirements

- Proper capacity (e.g. appointment by appropriate principal, not acting in dual capacity as agent and broker).
- Prescribed fee (licence fee waived in the first 5 years).
- Fit and proper (criteria to be specified in Guideline on Fit and Proper Criteria for Licensed Insurance Intermediaries).
- Additional requirements for insurance brokers (Rule on Minimum Requirements for Insurance Brokers)
- For insurance agencies and broker companies - Responsible officer with sufficient authority and resources
- Normally 3-year licence period (renewal)



Licensing Requirements

Fit & Proper

- Major fit and proper criteria under IO (S.64ZZA)
 - education, qualifications or experience
 - competence, reputation, character, reliability and integrity
 - financial status or solvency
 - disciplinary action taken by authorities or regulators
 - related parties (e.g. associates, employees, representatives, group companies etc) and other business
 - internal controls and risk management systems
- **Guideline on Fit and Proper Criteria for Licensed Insurance Intermediaries**

Ongoing Obligations of Insurance Intermediaries

- Fit and proper
- Notification of the following changes:
 - Change in particulars – within 14 days (S.64P)
 - New Appointment – at least 14 days before appointment (S.64Q)
 - Termination of appointment - within 14 days (S.64R)
 - Cessation of insurance broking business – at least 3 months before cessation (S.64T)
 - Change in partners, directors, controllers and auditors – within one month (S.64ZZD & S.72)
- Renewal of licence
- Requirements in codes, rules, regulations, and guidelines
- Requirements for inspection and investigation purposes

Current Preparatory Work

- Drafting some 20 sets of rules, regulations, codes and guidelines, e.g.
 - Guidelines on Fit and Proper Criteria, Continuing Professional Development (CPD), Pecuniary Penalty etc.
 - Code of Conduct
 - Rule on Maximum Number of Appointing Insurers and Minimum Requirements for Insurance Brokers
 - Regulation on User Fees
- Formation of a Working Group
- Close Liaison with SROs about Transitional Matters
 - Transfer of records
 - Provision of rules/regulations/codes/guidelines
- Development of Insurance Intermediaries System

Current Preparatory Work

Drafting of Codes and Guidelines

Working
Group

- Discuss with Working Group on Direct Licensing Regime for Insurance Intermediaries

Soft
Consultation

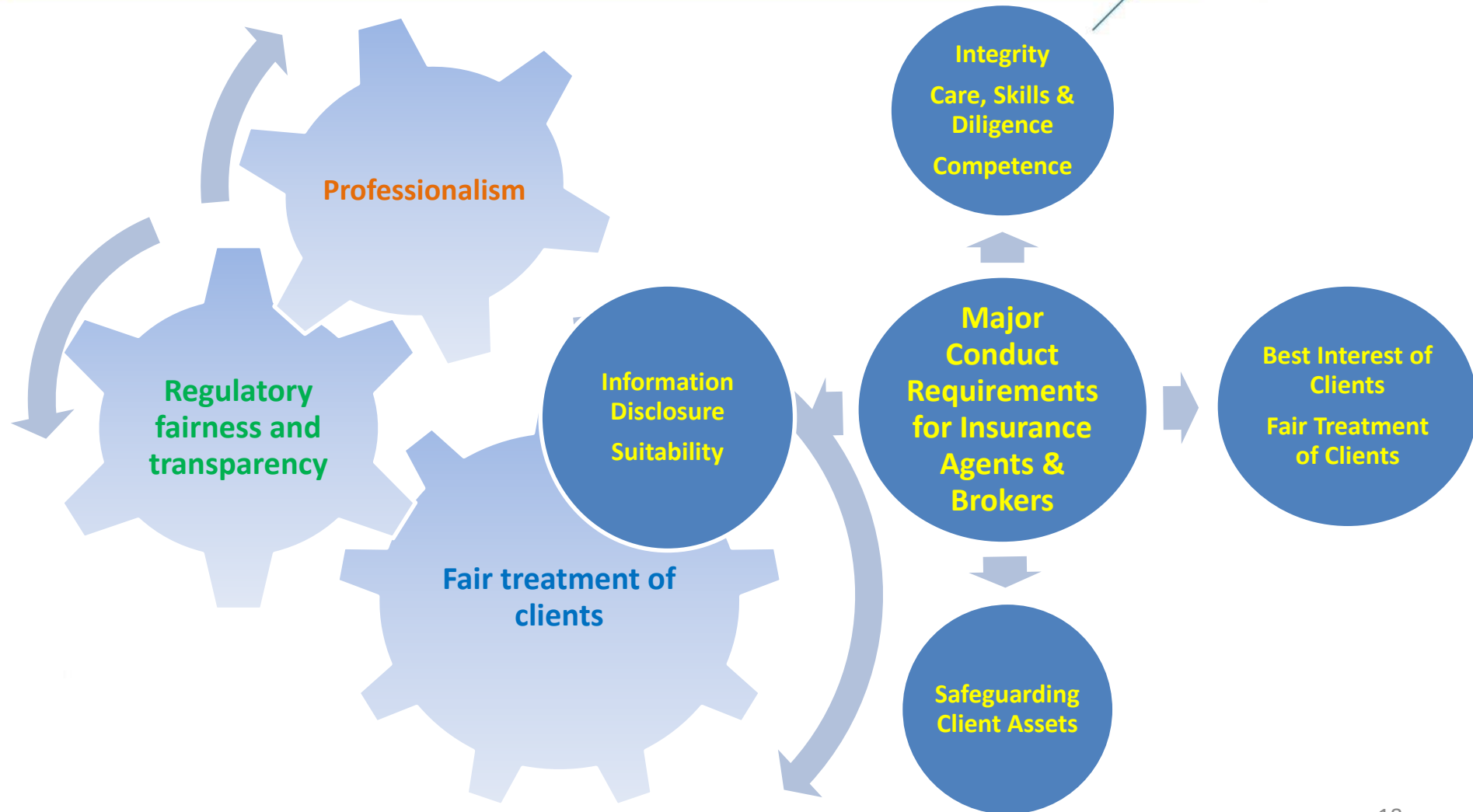
- Conduct soft consultation with major stakeholders

Public
Consultation

- Issuance of consultation paper and conclusions

Current Preparatory Work

Drafting of Code of Conduct



Current Preparatory Work

Close Liaison with SROs

Work closely with HKFI/IARB, CIB and PIBA on transitional matters to ensure smooth implementation of the new regime.

SROs' transfer of data and records (both physical and electronic) to IA in relation to insurance intermediaries (including responsible officers and chief executives):

- current and former registration;
- complaints;
- non-compliance with rules and regulations;
- appeals; and
- disciplinary sanctions.



Current Preparatory Work Insurance Intermediaries System

- All data related to intermediaries stored in SROs' computer systems will be transferred to IA's computer system.
- Supports an online Register of Licensed Insurance Intermediaries for public inspection
- Long term objectives:
 - online functions
 - streamline processes
 - more information and statistics
 - enhance regulatory efficiency





Successful regulation is never achieved by coercion but effective collaboration with the insurance industry which will be rewarded by increasing public confidence in and healthy development of the industry.



保險業監管局
Insurance Authority

Thank You