

**Frequently Asked Questions on the
Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules
("Broker Rules") issued under the Insurance Ordinance (Cap. 41) ("IO")**

Q1: Is the increase in paid-up share capital of a licensed insurance broker company required to be cash injection?

A1: Paid-up share capital can be increased in the form of cash injection, capitalization of retained earnings and other means of capital restructuring, e.g. conversion of subordinated debt into share capital.

Q2: Does a professional indemnity insurance ("PII") policy need to be issued by an insurer which is authorized in Hong Kong to satisfy the requirements in the Broker Rules?

A2: No. Provided the terms and conditions of the PII policy fulfill the requirements as stated in the Broker Rules (i.e. scope of coverage, minimum limit of indemnity, reinstatement requirement and maximum deductible), it may be issued by an insurer which is not authorized in Hong Kong.

Q3: Is a licensed insurance broker company required to make reference to its audited amount of net assets in determining the deductible under a PII policy?

A3: Yes. However, if the audited amount of net assets is not available at the time when a licensed insurance broker company arranges its PII policy, it may rely on the unaudited amount of net assets, appropriately adjusted where required by the applicable accounting standards, as a reference for the purposes of determining the maximum deductible it can have under the policy. The broker company should, however, be alert to any subsequent downward adjustments to the amount of net assets. If the broker company becomes aware that, as a result of such decrease, the deductible in its PII Policy does not comply with the deductible requirements in the Broker Rules, it should take immediate steps to rectify the situation, for example, by arranging an endorsement to the policy.

Q4: If a licensed insurance broker company does not handle client monies, is it required to maintain a separate client account?

A4: Under section 71 of the IO, a licensed insurance broker company is required to hold client monies separate from the broker company's monies. Hence, a broker company which does not hold any client monies is not required to maintain a separate client account. The broker company should ensure its business operations will not involve handling of client monies if it does not maintain a client account.

Q5: Can a licensed insurance broker company use client monies of one client to settle the premiums of another client's insurance policy?

A5: No. Under section 71(4) of the IO, client monies relating to a client may only be used for the purposes of that client.

Q6. What follow-up action should be taken by a licensed insurance broker company if irregularities are identified when performing bank reconciliation of its client accounts?

A6. The licensed insurance broker company should promptly rectify the irregularities identified in its client accounts. Further, if the irregularities have amounted to a material breach of the IO and/or Broker Rules, the broker company should report the irregularities to the Insurance Authority (per Section IX, paragraph 5(b) of the Code of Conduct for Licensed Insurance Brokers).

Q7. HKICPA has issued three sets of accounting standards (otherwise known as financial reporting frameworks), namely Hong Kong Financial Reporting Standards (HKFRS), the Hong Kong Financial Reporting Standard for Private Entities (HKFRS-PE) and the Small and Medium-sized Entity Financial Reporting Framework and Financial Reporting Standard. Which financial reporting framework should be adopted by a licensed insurance broker company incorporated in Hong Kong for the purpose of giving a true and fair view of the financial statements of a licensed insurance broker company?

A7. Under Rule 8(1) of the Broker Rules, a licensed insurance broker company must prepare its financial statements to be provided to the Insurance Authority under section 73(1) of the IO in accordance with applicable accounting standards. Under Rule 9(1) of the Broker Rules, the auditor's report on the financial statements of a broker company must provide a true and fair view.

If the broker company is incorporated in Hong Kong, the applicable accounting standards would be the accounting standards generally accepted in Hong Kong. Both the HKFRS and HKFRS-PE are accounting standards generally accepted in Hong Kong and would apply in relation to the broker company's financial statements provided the broker company is eligible¹, in accordance with the terms of the standards, to apply them, and the standard enables the auditors concerned to opine on whether the financial statements give a true and fair view of the financial position and performance of the broker company.

¹ The HKFRS-PE is intended for use by private entities that do not have public accountability and publish general purpose financial statements for external users. An entity has public accountability if its debt or equity instruments are traded in a public market or it is in the process of issuing such instruments for trading in a public market, or it holds assets in a fiduciary capacity for a broad group of outsiders as one of its primary businesses.

In general, an entity that is not eligible to apply HKFRS-PE shall apply the HKFRS. For applicability and details, please refer to the respective financial reporting framework issued by HKICPA.

常見問題

根據《保險業條例》(第 41 章) (“該條例”) 發出的 《保險業(持牌保險經紀公司的財務及其他要求)規則》 (“該規則”)

問題 1： 持牌保險經紀公司是否須要以現金注資的方式增加繳足款股本？

回答 1： 繳足款股本可以透過以現金注資，保留收益資本化和其他資本結構重組(例如將後償債項轉換為股本)的方式增加。

問題 2： 專業彌償保單是否須要由在香港獲授權的保險公司簽發以符合該規則的規定？

回答 2： 不是。如有關專業彌償保單的條款及細則符合該規則中有關專業彌償保單的規定(即保障範圍、最低彌償限額及保額復效的規定)，則有關保單可由並未在香港獲授權的保險公司簽發。

問題 3： 持牌保險經紀公司是否須基於其經審計的淨資產款額以釐定其專業彌償保單自付額？

回答 3： 是。然而，若保險經紀公司於安排專業彌償保單時，尚未獲得有關經審計的淨資產款額的資料，則可使用未經審計的淨資產款額(按照適用的會計準則作出合適的調整)作為參考，以釐定其專業彌償保單的最高自付額。惟經紀公司應注意淨資產於隨後的任何向下調整。如經紀公司注意到其淨資產的向下調整會引致其專業彌償保單自付額不符合該規則有關自付額的規定，則應及時採取行動加以糾正，例如安排批單以調整自付額。

問題 4： 如果持牌保險經紀公司並不需要處理客戶款項，是否需要維持一個獨立的客戶賬戶？

回答 4： 根據該條例第 71 條，持牌保險經紀公司必須將客戶款項，與該經紀公司的款項分開持有。因此，不會持有任何客戶款項的持牌保險經紀公司無須維持獨立的客戶賬戶。如持牌保險經紀公司並沒有維持任何客戶賬戶，則應確保其業務運作不會涉及客戶款項的處理。

問題 5： 持牌保險經紀公司是否可使用某客戶的款項以支付另一位客戶的保單之保費？

回答 5： 不可以。根據該條例的第 71 (4) 條，關乎某客戶的款項只可為該客戶的用途而使用。

問題 6： 如果持牌保險經紀公司為其客戶帳目進行銀行對帳時發現有異常情況，應採取什麼跟進行動？

回答 6： 持牌保險經紀公司應盡快對其客戶帳目的異常情況採取補救措施。如該異常情況對該條例及/或該規則構成重大違規，保險經紀公司應(根據持牌保險經紀操守守則第 IX 節第 5(b)段)通知保險業監管局(“保監局”)。

問題 7： 香港會計師公會已頒布三套會計準則(或稱為財務報告總綱)，即《香港財務報告準則》、《私營企業香港財務報告準則》及《中小企財務報告總綱及準則》。在香港成立的持牌保險經紀公司應採用哪種財務報告總綱，以提供真實而中肯意見的財務報表？

回答 7： 根據該規則第 8 (1) 條，持牌保險經紀公司須按照適用的會計準則編制根據該條例第 73(1)條向保監局提供的財務報表。根據該規則第 9 (1) 條，經紀公司財務報表的核數師報告須反映真實而中肯的意見。

如經紀公司於香港成立為法團，適用的會計準則應為在香港普遍接納的會計準則。《香港財務報告準則》及《私營企業香港財務報告準則》均是在香港普遍接納的會計準則並適用於經紀公司的財務報表，惟該經紀公司須根據該等會計準則的條款符合採用該等準則的資格¹，而相關準則應能使核數師作出認為有關財務報表是否真實而中肯反映該經紀公司的財務狀況及表現的意見。

¹《私營企業香港財務報告準則》旨在供不需對公眾負責及只向外部使用者公布通用財務報表的私營企業所採用。如某一企業的債務性或權益性工具在公開市場交易、或其現正發行該等工具以備在公開市場交易、或其為廣大的外部人士以受信人身分持有資產作為其主要業務之一，則該企業需對公眾負責。

一般而言，不符合採用《私營企業香港財務報告準則》資格的企業應採用《香港財務報告準則》。有關財務報告總綱的適用性及細節，請參考香港會計師公會頒布的有關財務報告總綱。