
REGULATORY NEWSLETTER

2024 Vol.4



Happy Easter!

Easter symbolizes the triumph of life over death, reminding us of the unyielding power of love and faith. Let us embrace the beauty of this season, filled with colorful eggs, blooming flowers, and the warmth of shared moments. May Easter bring you an abundance of happiness, peace, and blessings.

ComplianceDirect wishes you all a glorious holiday of Easter!

REGULATORY UPDATES

Climate Risk Management Survey

12 March 2024

Thank you for participating in the climate risk management survey conducted by the Insurance Authority (IA) in the second half of 2023. The IA received a good response across the industry, reflecting its common recognition of climate change as an imminent threat.

Most respondents have drawn up a concrete plan to implement or are already implementing climate risk management practices, even though such practices vary between companies. However, there are areas that require further attention such as nurturing awareness and knowledge of the board, strengthening capacity for scenario analysis and preparing for compliance with evolving disclosure standards and requirements. A summary of the survey results is at [Annex](#).

The insurance industry is in an ideal position to take advantage of the opportunities presented by climate change. It is exposed to physical and transition risks, it can develop innovative products to incentivize preventive and adaptative actions, it is also a reliable source of impact investment. The

survey results provide visibility on overall readiness of the industry, which will serve as useful reference for the Insurance Authority in mapping out support measures and supervisory guidance going forward.

The IA will continue to partner with the Hong Kong Federation of Insurers, building on commitments underpinning the Insurance Industry Climate Charter, to realize our full potential in helping to secure a better future for mankind.

[View Circular](#)

ENFORCEMENT NEWS

Twelve-month ban imposed on former insurance agent Wong Chung Yiu for witnessing a false signature, falsifying signatures himself and making false declarations

27 March 2024

The Insurance Authority (IA) has imposed a twelve-month ban on former insurance agent Mr Wong Chung Yiu (Mr Wong) for witnessing his client sign a false signature, making false declarations and signing false signatures himself.

The case begins in September 2020, when a policy holder instructed Mr Wong to migrate his existing medical insurance policy to a Voluntary Health Insurance Scheme (VHIS) policy. The policy holder's daughter was the insured under existing policy and, to migrate to the new VHIS policy both father (as policy holder) and daughter (as insured) had to sign the application. The daughter, however, was not in Hong Kong. To proceed with the application, the father signed not only in his own capacity as the policy holder, but also as if he was his daughter (in effect, forging her signature as the insured). He did this in the presence of Mr Wong, who also signed the application (as the serving agent) to confirm that he had verified the identity of the proposed insured (the daughter), interviewed her and personally visited his residence. Mr Wong had done none of these things. Nevertheless, he made these false declarations and submitted the application to the insurer. The application was unsuccessful as no premium was paid.

A few months on, in January 2021, the father engaged Mr Wong again to purchase another VHIS policy for his daughter, this time with the daughter as the policy holder and insured. The daughter was still not in Hong Kong. To proceed with the application, the father (again) signed his daughter's signature in various places on the application which was being processed using Mr Wong's tablet. Observing that the father was encountering difficulties with this, Mr Wong signed the daughter's signature in three places himself. He also made the same declarations as before with regards to having verified the daughter's identity, interviewed her and visited her residence. These declarations were still untrue the second time around.

This time the application was successful, but the insurance policy was issued to the daughter. The

daughter, realising that she could not have purchased the policy as she was not in Hong Kong at the time, raised the issue with the insurer, at which point the truth of Mr Wong's misconduct was revealed.

This case shows an insurance agent who has convinced himself that "the end justifies the means", the end being achieving the father's aim of procuring insurance for his daughter (a noble objective), the means being to accomplish this by way of falsifying signatures and making false declarations (which is totally unacceptable). Forgery and making false statements are never justified when it comes to procuring insurance. Not only is this simply unethical, it provides a basis for the insurance policy to be vitiated from the outset and thereby totally fails to accomplish the end of legally binding insurance coverage which is the original objective. An insurance agent who does this completely fails his client, displays a lack of understanding of the good faith principle that forms the basis of all insurance policies and demonstrates an absence of integrity as to make him entirely untrustworthy. Such an agent is deserving of disciplinary action, especially given the erosion of ethics on display in this case, where the agent in a mere matter of months had descended from witnessing a father falsifying his daughter's signature, to stepping in to falsify the signatures himself.

To Mr Wong's credit, he has subsequently shown contrition for his actions and was cooperative in accepting the disciplinary action which has resulted in prompt resolution of this matter. This does not excuse his conduct, but it serves as a mitigating factor which the IA has taken into account in calibrating the level of penalty.

In deciding the disciplinary sanction to be imposed under the Insurance Ordinance (Cap. 41), the IA has weighed all relevant circumstances in the balance, including that:

1. Mr Wong did not ascertain the daughter's insurance needs;
2. Mr Wong repeatedly condoned the father to sign as his daughter in the applications, and Mr Wong also signed as the daughter 3 times on one of the applications;
3. Mr Wong made false declarations in the advisor's statement and the address proof declarations;
4. Mr Wong gained financially (commission) from the new application;
5. Mr Wong admitted his conduct;
6. The daughter acknowledged the father had taken out the applications on her behalf and subsequently withdrew her complaint;
7. Mr Wong's limited industry experience (2 years) at that time and his otherwise clear disciplinary record; and
8. The need to send a message to deter similar conduct.

[View News](#)

Fifteen-month ban imposed on former insurance agent for witnessing a false signature and fabricating a change of beneficiary form

21 March 2024

The Insurance Authority (IA) imposed a fifteen-month ban on a former insurance agent for her conduct of witnessing a client's false signature and fabricating a change of beneficiary form.

This case arises from a life insurance policy which the agent arranged for a client. The client's husband was to be named as the life insured. As part of the insurer's application process, the husband (as the proposed life insured) was also required to sign the relevant application documents along with his wife. He was not, however, in Hong Kong at the time. To proceed with the application, the client (the wife) in addition to signing the application forms as the policy holder in her own name, also falsely signed her husband's signature as the life insured. The agent gave credence to this duplicity by signing as the witness for this false signature. This was the agent's first transgression.

The client also gave instructions that she wanted to be named as the beneficiary of the policy and asked the agent to help arrange this. Although the agent committed to doing this, she forgot. This was the agent's second transgression.

Time passed by. The husband died. The client notified the agent to commence the claim process. The agent realised her omission with regards to arranging for the client to be the beneficiary. In an attempt to rectify this, the agent committed her third transgression by filling in the relevant beneficiary form, signing it as if she was the client and submitting it to the insurer.

In assessing the claim, the insurer discovered (from the husband's passport) that he had not been in Hong Kong at the time the application documents for the policy were signed in Hong Kong and that the form to change the beneficiary had been signed three days after his death. The policy was rescinded, leaving the client with no coverage. In the ensuing investigation the agent admitted all three of her transgressions.

In assisting the client to cut corners in the application process by witnessing her false signature, the agent had effectively helped jeopardise the legal effectiveness of the insurance policy from the outset. In proceeding then to falsify the beneficiary form to cover up her failure to follow her client's instructions, the agent displayed just how far her ethics had been eroded. Her escalating transgressions clearly impugned her fitness and properness as an insurance agent and she is deserving of the disciplinary action imposed.

The integrity of its practitioners underpins the insurance market with trust. The IA will not hesitate to use its disciplinary powers to reinforce that trust with the threat of proportionate disciplinary action.

The IA acknowledges the agent's cooperation in accepting the disciplinary action. This has resulted in prompt resolution of the case. Her admissions, it is hoped, serve as a first step in rehabilitating her character.

In deciding the disciplinary sanction to be imposed under the Insurance Ordinance (Cap. 41), the IA

has weighed all relevant circumstances in the balance, including that:

1. The policy was rescinded by the insurer leaving the client without an effective coverage;
2. The agent allowed the client to sign the application form as the insured and submitted it to the insurer;
3. The agent made a false declaration;
4. The agent fabricated an application for change of beneficiary form as the client and the insured and submitted it to the insurer to cover up her mistake;
5. The agent received financial benefit (commission) from her said conduct;
6. The agent admitted to and expressed regret over her said conduct; and
7. The need to send a message to deter similar conduct.

[View News](#)

Insurance Authority suspends Lam Kwan for seven months for taking out an insurance policy without the client's knowledge or consent

12 March 2024

The Insurance Authority (IA) has taken disciplinary action against Mr Lam Kwan (Mr Lam) by suspending his licence for seven months on the ground that he is not a fit and proper person after having taken out an insurance policy without the client's knowledge or consent and for motives other than the client's best interests.

In December 2020, Mr Lam completed an insurance application in the name of one of his clients. He signed the application as if he was the client without the client's knowledge or consent and paid the first year premium of HK\$8,009.66.

The client discovered the insurance policy when she was reviewing her other policies issued by the same insurer via the insurer's electronic portal. As the client had not been in Hong Kong at the time the application was purported to have been signed by her and had given no authorization for Mr Lam to apply for the policy on her behalf, after raising the matter with Mr Lam without satisfactory explanation, she complained to the IA.

The insurance policy subsequently lapsed for non-payment as the client did not elect to reinstate it.

During the subsequent investigation, it was discovered that in December 2020 Mr Lam had informed the client that he had enrolled her in a lucky draw being run by his principal insurer. He then completed the application form for the insurance policy, signed it as the client and submitted it to the insurer. When the insurance policy was issued, he told the client that she had won the lucky draw and the prize was an insurance policy. The client had informed him, however, that she was not in Hong Kong at the

time.

It turned out, there was no lucky draw run by the insurer. According to Mr Lam's subsequent admissions in the investigation, he had signed the application form as the client and arranged the policy for the client, making up the story that she had won it in a lucky draw. His stated motivation for doing this was to make it look as though he had sold more insurance policies, so as to gain a higher ranking in the insurer's "annual list" and thereby inspire his team to do more business.

Mr Lam did not financially benefit from his actions (quite the opposite in fact). The policy cost him HK\$8,009.66 and he received HK\$4,001.48 in commission. His actions, however, crossed the clear bright line between right and wrong which licensed insurance intermediaries must never cross. The deceitful practice of utilising a fictitious lucky draw to mask the act of applying for an insurance policy without a client's consent, was clearly unethical and demonstrative of a lack of integrity and character as to impugn the perpetrator's fitness and properness. Not only did he deceive his client, he also deceived his principal insurer. The motivation of seeking to rank higher on the insurer's "annual list" and supposedly wanting to inspire his team to do more business, further aggravates the disreputable nature of his actions. As a leader of a team, Mr. Lam should have known better. He has let down himself, his team, his principal, the insurance industry, but most of all his client.

The IA acknowledges Mr Lam's cooperation in accepting the disciplinary action by way of an agreement which has resulted in prompt resolution of this matter¹. It is also recognised that his admissions and contrition serve as a first step in rehabilitating his character (and he can work further to restore his fitness and properness by reflecting on his actions during his 7-month suspension).

In deciding the disciplinary sanction to be imposed under section 84 of the Insurance Ordinance (Cap. 41), the IA weighed all relevant circumstances in balance, including that:

1. Mr Lam completed and signed the application forms as the client;
2. Mr Lam abused his position of trust, deceived the client and misled his principal;
3. Mr Lam took out the insurance policy to aid his personal agenda;
4. Mr Lam has been in the industry for 17 years and had a clean disciplinary record; and
5. the need to send a message to deter similar conduct.

This case also highlights several important take-aways:

Firstly, it serves as a warning to licensed insurance intermediaries never to use deceitful practices to seek to trick clients. Any regulated person who uses a fictitious lucky draw, a non-existent "time-limited offer", or other such fake promotions designed to induce a client into a buying decision, can expect swift and harsh punishment from the IA.

Secondly, the case serves as a reminder that even when a lucky draw or time-limited discount or promotion is true, a prospective policy holder should not let the sense of fear of missing out, or "FOMO", which these promotions aim to foment, disproportionately influence or serve as a distraction in making a buying decision. Always take enough time to understand the terms and conditions of the insurance

policy and make an informed decision based on your insurance needs.

Thirdly, in this case the client discovered the problematic insurance policy by checking her e-portal account with the insurer. This reinforces the value of policy holders regularly checking on their insurance coverages through facilities like e-portals provided by insurers. This is always good practice in managing one's personal finances.

[View News](#)

Insurance Authority imposes prohibition orders on three former insurance agents on fit and proper grounds

4 March 2024

The Insurance Authority (IA) has taken three separate disciplinary actions against former insurance agents on fit and proper grounds. In each case, an order was imposed prohibiting the individual from applying for an insurance intermediary licence for a specified period.

In two of the cases the former agents used false academic certificates to demonstrate satisfaction of the minimum education requirements to be insurance agents under the former self-regulatory regime. Clearly, such actions are not fit and proper.

Individuals who display such a lack of ethics and integrity, violate the trust on which insurance market must be founded and are deserving of punishment through prohibition from re-entering into insurance market, until they are able to demonstrate such a complete reformation of character so as to show themselves worthy of being trusted. This process can only start with, and must be underpinned by, full acceptance and admission of the wrongdoing. Prohibitions of 3 years were imposed in these cases. In imposing the prohibitions the IA was constrained to act in accordance with requirements under the self-regulatory regime which applied at the time. Under the new (and current) regime, the Insurance Ordinance makes such actions a criminal offence prosecutable by the IA. The IA will not hesitate to prosecute any attempt to submit a false academic certificate as part of a licensing application to the fullest extent of the law.

Insurers also have a role to play in ensuring that, when onboarding prospective new insurance agents, they verify that the applicant meets the fit and proper requirements, including the verification of academic qualifications. If the IA finds any candidate slipping through the net of an authorized insurer's controls, the insurer can expect its controls and processes to be placed under immediate scrutiny and the insurer will be answerable for any weaknesses identified.

In the third case, the former agent was also a subsidiary intermediary registered under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO). The former agent was disciplined by the Mandatory Provident Funds Scheme Authority (MPFA) for contravening its conduct requirements (following an investigation by the IA as the frontline regulator of subsidiary intermediaries from the insurance sector). The contravening conduct involved the transfer of benefits without client authorization and impersonation of the client to obtain account information.

In determining whether a person is fit and proper to be or remain a licensed insurance intermediary, the IA must take into account the person's ability to carry on insurance regulated activities

competently, honestly and fairly, the reputation and integrity of the person, and any disciplinary action taken against the person by, inter alia, the MPFA. The contravening conduct of the individual as subsidiary intermediary under the MPFSO involved dealings on behalf of a client that were similar to carrying on insurance regulated activities. Accordingly, the IA took the view that in impugning his fitness and properness to be a subsidiary intermediary under the MPFSO, the individual had also impugned his fitness and properness to be an insurance intermediary, and imposed a prohibition to run concurrently with that imposed by the MPFA.

These cases demonstrate the determination of the IA to use its disciplinary powers to reinforce the need for insurance intermediaries to be fit and proper persons to perform their role, thereby ensuring the insurance market continues to be founded on trust.

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