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# REGULATORY NEWSLETTER

2023 Vol.12



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Welcome to the last edition of our Regulatory Newsletter for this year, in which we look back over the last month at key developments affecting the financial industry and risks professionals face, summarizing regulatory updates that have happened in Hong Kong.

In our monthly newsletter, ComplianceDirect is committed to keeping you up-to-date on the latest compliance news and regulations that are relevant to your business. We hope that the information we provide in this month's newsletter is informative. We wish you continued success in the months ahead and look forward to supporting your business in any way we can.

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## REGULATORY UPDATES

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### **Revision to the Interpretation Note relating to the Guideline on Continuing Professional Development for Licensed Insurance Intermediaries (GL24)**

**14 November 2023**

The IA issued an update to the Interpretation Note on the Guideline on Continuing Professional Development ("CPD") for Licensed Insurance Intermediaries (GL24) that we issued back in August 2021.

Although the IA is still finalizing its assessment of the figures, it is certainly apparent that the CPD compliance rate for the CPD Assessment Period 2022/23, shows a marked improvement over the prior Assessment Period. As with the previous Assessment Period, we shall be publishing details of this soon. The improvement comes off the back of significant work put in by principals to enhance their controls, procedures and support for their appointed individual licensees' CPD attainment. This in turn has been reinforced by the IA's thematic CPD conduct inspections and disciplined enforcement of CPD non-compliances in respect of the prior CPD Assessment Period in line with the IA's CPD Penalty Framework.

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## **Insurance Authority's Disciplinary Panel Pool**

**15 November 2023**

The IA reappointed 12 of its external Disciplinary Panel Pool ("DPP") members and appointed 20 new external members to the DPP for a term of 3 years from 1 October 2023 to 30 September 2026. Together with the 13 executive and non-executive directors, this brings the total DPP membership up to 45.

The DPP is a key part of the IA disciplinary architecture. Where the IA seeks to take certain disciplinary actions under the Insurance Ordinance (Cap. 41) or the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615), the case will be put to a disciplinary panel of three persons drawn from the DPP to make the decision. This serves to ensure that the IA's disciplinary process is fair, efficient and robust and that the disciplinary actions taken underpin the requirements in the insurance regulatory framework with the necessary deterrent threat. Since the first disciplinary panel was formed in May 2021, the IA (through the constitution of 18 disciplinary panels) has taken 21 disciplinary actions on a range of misconduct and fit and proper issues and shortcomings in governance controls and processes. .

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## **Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules (Cap. 41L) Savings and Transitional Arrangements**

**30 November 2023**

The Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules (Cap. 41L) ("Broker Rules") set out requirements applicable to licensed insurance broker companies for minimum share capital, net assets, professional indemnity insurance, the keeping of proper books and records, and contents for audited financial statements and auditor's report.

The Broker Rules came into force on 23 September 2019. They have incorporated a 4-year plus transitional arrangement which, over the period from 23 September 2019 to 31 December 2023, has gradually stepped-up the new requirements in the Broker Rules as they apply to "specified broker insurance companies" 1, being licensed insurance broker companies which were previously registered under the self-regulatory regime (and which continue to be licensed under the new regulatory regime).

The first and second stages of this stepping up took place on 31 December 2021 and 31 December 2022, respectively. The final stage is due to take place on 31 December 2023.

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## ENFORCEMENT NEWS

### **Insurance Authority bans former insurance agent for five years for mishandling and misappropriating premium**

**6 November 2023**

The IA banned a former insurance agent from applying for a licence for five years for mishandling and misappropriating the premium payments from two policy holders.

In February 2019, a policy holder approached the insurance agent regarding how to pay premium for an insurance policy to the agent's appointing insurer. The agent then purported to facilitate the payment by receiving RMB12,000 from the policy holder. Instead of immediately paying it onto his appointing insurer, however, the agent used the funds to settle his own family affairs. When the agent did eventually issue a cheque to the appointing insurer, the cheque bounced (because the agent had already used the money). The agent did not, however, tell the policy holder this. Only when the policy holder later checked with the insurer was the truth discovered. The policy holder complained to the insurer about the agent's conduct. In response, the agent returned RMB6,000 to the policy holder, but astonishingly refused to return the remaining amount unless the complaint was withdrawn and a public apology was issued. Later the insurance agent returned a further RMB3,000.

The complaint prompted the insurer to conduct an audit call on all of the agent's clients whose policies had lapsed within the previous two years. Through the audit call, it was discovered that the agent had received RMB15,000 from a client in April 2018, for the purpose of settling the client's premium payment of an insurance policy. However, the agent failed to pay the monies onto the insurer, resulting in the policy lapsing in December 2018. When the client enquired about the policy in May 2019, the agent concealed the status of the policy. He even led the client to think the policy was still in force, informing the purported latest instalment of premium that needed to be paid. This time, however, the client tried to make the payment direct to the insurer and it was at this point the true status of the policy was revealed, along with the failures of the agent.

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### **Insurance Authority bans two former insurance agents for three years for using false academic certificates under the former self-regulatory regime**

**22 November 2023**

The IA took disciplinary action against two former insurance agents who had each used two false academic certificates on different occasions to establish that they had met the minimum education requirements to be insurance agents under the former self-regulatory regime. Both cases were handled

in accordance with the requirements in place at the time the false academic certificates were submitted.

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