REGULATORY NEWSLETTER

2022 Vol.2

Happy Chinese New Year!

Kung Hei Fat Choy! As we step into the year of Tiger, ComplianceDirect will invariably put great effort into providing you with professional consultation and compliance advice, like we always do. On that note, apart from the wishing each other prosperity and wealth, how could we embrace this new year without Regulatory Updates from the IA which you can share with your friends, co-workers and compliance buddies to celebrate the new beginnings, virtually!

REGULATORY UPDATES

Continuing Professional Development requirements

Disciplinary actions for assessment year 2018/2019

10 Jan 2022

The Insurance Authority ("IA") took disciplinary action against 91 licensed individual insurance agents for non-compliance with the Continuing Professional Development ("CPD") requirements for the assessment period from 1 August 2018 to 31 July 2019. This was the last assessment period prior to the IA taking on the regulation of licensed insurance intermediaries and the approach of the previous self-regulatory regime has been followed in applying these disciplinary actions.

The individual insurance agents concerned have had their licences revoked and are prohibited from applying to be licensed insurance intermediaries for a period of 3 months and until they have completed their outstanding CPD hours. Details of the disciplinary actions and the agents concerned may be searched on the Register of Licensed Insurance Intermediaries on our website (using the search function for the date of the disciplinary actions).

Going forward CPD non-compliances will be addressed in accordance with the CPD Penalty Framework issued with our circular of 23 July 2021 which also emphasized (among other matters) the responsibilities of principal insurers to have in place adequate controls to ensure the insurer's appointed licensed insurance agents comply with CPD requirements. The new CPD Penalty Framework is as followed:

CPD breaches for the assessment periods ending on 31 July 2022 and thereafter			
Shortfall	**Penalties**		
Shortfall is less than 8 hours.	A fine of $600 per hour of shortfall will be imposed, plus the shortfall must still be rectified by 31 October.	Failure to rectify the shortfall by 31 December 2021 and/or to pay the fine will lead to a minimum suspension of 3 months (to continue thereafter until the shortfall is rectified.	If the shortfall is still not rectified and/or the fine remains unpaid after 3-month suspension licence may be revoked.
Shortfall is 8 hours or more	A fine of $600 per hour of shortfall will be imposed as well as a minimum suspension of 3 months (which will continue until the shortfall is rectified or the fine is paid.)	If the shortfall is still not rectified and/or the fine remains unpaid after the suspension of 3 months, licence may be revoked.	

View Circular

Continuing Professional Development ("CPD") Requirements under the New Regulatory

Information on CPD hours for the Assessment Period

28 Jan 2022

This circular provides further information on the CPD Assessment Period 2021/2022 (which runs from 1 August 2021 to 31 July 2022).

Number of CPD hours

During the CPD Assessment Period 2021/2022 (and for each subsequent Assessment Period), every individual licensee whose licence was active immediately before the beginning of the Assessment Period (i.e., 31 July 2021) is required to earn a minimum of 15 CPD hours, including 3 compulsory hours on "Ethics or Regulations". The only exception is travel agents who are only required to earn a minimum of 3 CPD hours per Assessment Period with no compulsory hours required on "Ethics or Regulations".

For individual licensees who are newly licensed by the Insurance Authority ("IA") during an Assessment Period, the total CPD hours required (and the compulsory hours on "Ethics or Regulations") are calculated on a pro-rata basis depending on the month in which the relevant licence is granted by the IA.

View Circular

Regulatory Approaches of the Insurance Authority in Relation to Virtual Assets and Virtual Asset Service Providers

28 Jan 2022

The Insurance Authority ("IA") has recently received some enquiries from the industry on possible involvement or interaction with activities related to virtual assets ("VAs") and Virtual Asset Service Providers ("VASPs"). This circular provides guidance on the pertinent issues that authorized insurers should take into account on this topic.

Prudential Supervision

Authorized insurers should ensure that they fully discharge their obligations under the Guideline on Enterprise Risk Management ("GL21") in evaluating and addressing risks associated with VA-related activities. In general, GL21 requires an authorized insurer to have in place robust governance and processes to proactively identify and assess its risk exposures and to develop techniques to monitor, manage and mitigate its risks, taking into account all applicable legal and regulatory requirements. Section 6 thereof sets out an overriding obligation to regularly review risk exposures against risk appetite statement and risk limits. In respect of VA-related activities and engagement with VASPs, an authorized insurer should:

a) consider whether involvement with such activities is within the limits of its risk appetite statement (section 5 of GL21);
b) identify and evaluate all relevant material risks to which it would be exposed in engaging in such activities (sections 6.2 and 6.3 of GL21);
c) establish monitoring and reporting processes to ensure that the relevant material risks are monitored and reported to its board, risk committee and senior management (section 6.3 of GL21); and
d) factor a risk management review into its decision-making process governing such activities and install controls to mitigate or transfer the relevant material risks (section 6.4 of GL21).

Given that development of VAs is still at a nascent stage, authorized insurers are expected to adopt a conservative approach and should deduct the value of VAs in full when deriving their solvency positions. Moreover, authorized insurers carrying on general business should not include VAs as local assets in seeking compliance with section 25A of the Insurance Ordinance (Cap. 41) ("IO").

View Circular

ENFORCEMENT NEWS

Insurance Authority reprimands and imposes $7 million fine for multiple contraventions of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance

31 Jan 2022

The Insurance Authority ("IA") has reprimanded and ordered the insurers formerly known as Metlife Limited and Metropolitan Life Insurance Company of Hong Kong Limited (collectively, the "Companies") to pay a pecuniary penalty of HK$7 million for contravening seven specified provisions of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) ("AMLO").

The disciplinary action follows an investigation by the IA which discovered the following failures by the Companies, during the period from January 2015 to October 2017:

- The Companies failed to maintain effective procedures to determine whether their customers (or the beneficial owners of its customers) were politically exposed persons ("PEPs") prior to entering into business relationships and failed to take reasonable measures to establish the source of funds or source of wealth or obtain senior management approval to continue the business relationships, when customers were eventually identified as PEPs;
- The Companies failed to maintain effective procedures to assess, where a business relationship was to be established, whether such business relationship may have presented a high risk of money laundering or terrorist financing;
- The Companies failed to review, on at least an annual basis, documents, data and information relating to customers which presented a high risk of money laundering or terrorist financing to ensure such documents, data and information were up to date;
- The Companies failed to have in place adequate or effective monitoring procedures in relation to existing business relationships with customers to identify transactions which were complex, of an unusually large amount, of an unusual pattern and which had no apparent economic or lawful purpose; and
- The Companies failed to take all reasonable measures to ensure proper safeguards existed to prevent the failures identified and mitigate money laundering and terrorist financing risks.

The Companies have already taken remedial measures to address the deficiencies identified.

The IA takes these failures seriously and wants to send a clear message to the industry that all authorized insurers and licensed insurance intermediaries carrying on long term business should have in place effective anti-money laundering and counter-terrorist financing controls and procedures. The insurance industry must be founded on trust and integrity and the establishment of effective systems and controls to combat money laundering and terrorist financing is imperative to reinforce that trust and maintain Hong Kong's position as an international finance centre.

The Companies were acquired by the FWD group on 30 June 2020 and are now named FWD Life (Hong Kong) Limited and FWD Life Assurance Company (Hong Kong) Limited, and are under entirely new management.

View News

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