



ICG Seminar 2023

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What is “Market Conduct”?

“Market Conduct” refers to the way in which insurance business is conducted in the insurance market between providers of insurance (insurers and insurance intermediaries) and buyers of insurance (members of the public).



Market Conduct regulation, “regulated activities” and fair customer treatment

IA’s Market Conduct Division supervises conduct in the insurance market, focusing on “regulated activities” i.e.:

- Selling and marketing activities for insurance policies
- Negotiation and arrangement of insurance policies; and
- Advising customers on insurance matters

“Regulated activities” are carried on by insurance intermediaries who must be licensed and must comply with minimum standards and practices so that customers are treated fairly.

The 3 Pillars of Market Conduct regulation

Licensing

Conduct
Supervision

Enforcement

Pillar 1 - Licensing

Pillar 1 - Licensing

Licensing

A person who carries on “regulated activities” must be licensed as a licensed insurance intermediary

IA’s Licensing Team is “gate-keeper”

Only “fit and proper” persons can be licensed

Vital to ensuring trust in the insurance market



Pillar 2 – Conduct Supervision - licensed insurance intermediaries

Pillar 2 – Conduct Supervision (Intermediaries)

The Eight Conduct Requirements. (s.90)

- 1) Honesty and integrity
- 2) Treating customers fairly and acting in their best interests
- 3) Exercising care, skill and diligence
- 4) Being competent to advise
- 5) Giving advice which is suitable to the customer's circumstances
- 6) Disclosing adequate information to customer
- 7) Avoiding and managing conflicts interest
- 8) Protecting client's assets

Conduct Supervision

The Eight Conduct Requirements = **ETHICAL
PRINCIPLES OF BEHAVIOUR**

Enforcement



IA's Conduct Supervision Team supervises insurance intermediaries on the Eight Conduct Requirements and other requirements in the IO, Codes and Guidelines

Pillar 2 – Conduct Supervision - authorized insurers and the intermediary management control function

Pillar 2 – Conduct Supervision (insurers)

Every insurer that distributes insurance products through intermediaries, must have

- **Intermediary Management Control Function**
- **Key Person responsible for this function.**

IM Control Function establishes **governance and controls** on intermediaries carrying on regulated activities in relation to insurance products issued by the insurer

Conduct Supervision

IA's Conduct Supervision Team supervises insurers to ensure governance and controls on intermediaries are adequate.

Example:

Insurer “name and shame” list for CPD non-compliance published by IA in December 2022.

Pillar 3 - Enforcement and Discipline

Pillar 3 – Enforcement and Discipline

IA has power to take enforcement and disciplinary action against:

- Intermediary for contravening Conduct Requirements;
- Insurer for inadequate corporate governance and controls on intermediaries.

Enforcement underpins the conduct regulatory regime with the threat of proportionate disciplinary action, if breached.

Enforcement

- **Conduct Supervision (Pillar 2)**
(particularly insurer governance and controls)
– Alan Wu, Senior Manager Conduct Supervision
- **Enforcement (Pillar 3)**
Disciplinary actions to reinforce strong ethics and robust governance
– Maria Tsui, Head of Enforcement.

Part 2: Conduct Supervision





The Insurance Authority's functions include:

- be responsible for supervising an authorized insurer's and a licensed insurance intermediary's compliance with the Insurance Ordinance
- promote and encourage the adoption of **proper standards of conduct** and sound and prudent business practices by authorized insurers
- promote and encourage the adoption of **proper standards of conduct** by licensed insurance intermediaries



Increasingly focusing on insurers and other principals, to ensure they have **sufficient control measures** in place to get the basics right!

What are control measures?

Control measures =

policies and procedures put in place to prevent problems or non-compliances from arising



Ultimate Goal =

to reduce exposure to “conduct risk” (i.e. the risk of adverse consequences to customers arising from conducting business in a way that does not ensure fair treatment of customers)

Intermediary Management Function

The “**Intermediary management function**” of an authorized insurer is a function to establish and administer **control measures** for:

1



Administering the **licensed individual insurance agents** and **licensed insurance agencies** appointed by the insurer in relation to the regulated activities they carry out

2



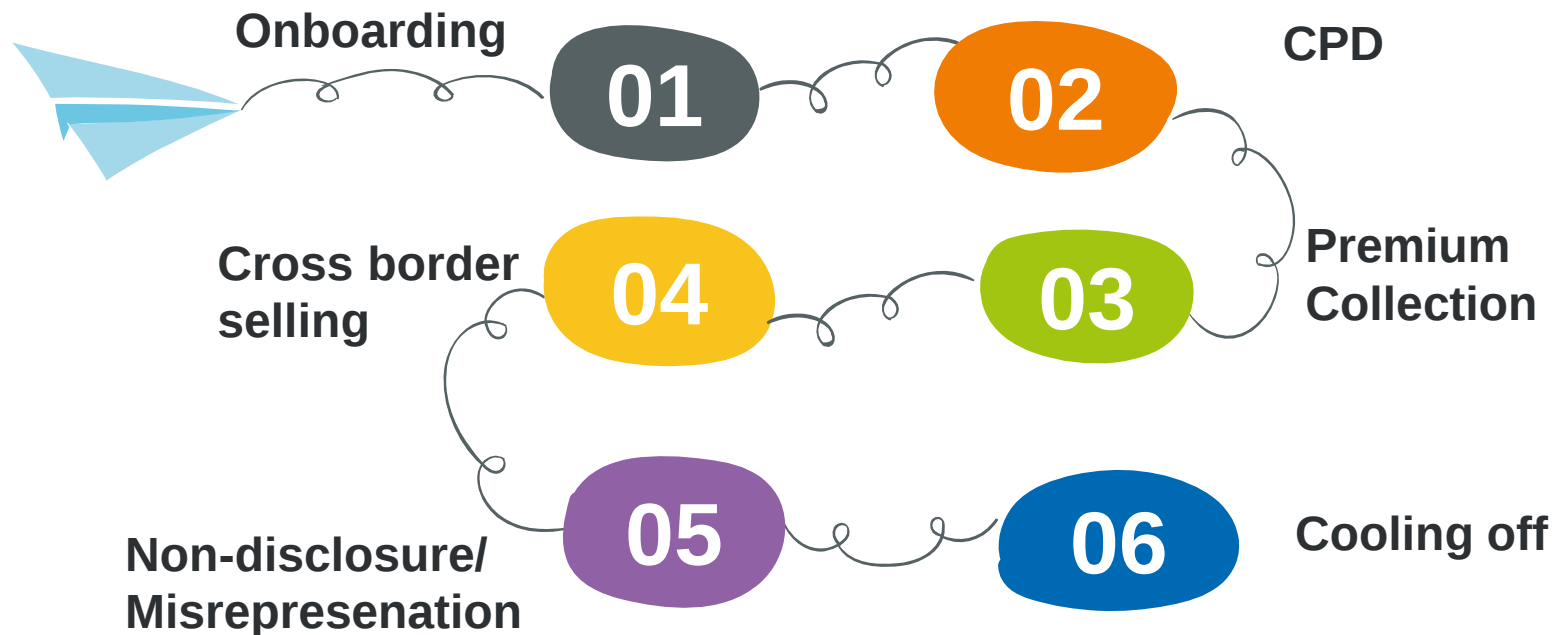
Monitoring compliance with the Insurance Ordinance by the **licensed individual insurance agents** and **licensed insurance agencies** appointed by the insurer

3



Ensuring that the arrangements by the **licensed insurance intermediaries** (i.e. agents and brokers) for referring business to the insurer comply with the Insurance Ordinance and the relevant regulatory requirements

Six Basic Areas:



1. Onboarding

Objectives:

- ❖ Persons being appointed as insurance intermediaries meet the “fit and proper” requirements
- ❖ Appointed intermediaries will carry on regulated activity with ethics and integrity, will treat customers fairly and act professionally



Checking process prior submission of application to the IA



Expected Controls

- Authenticate candidate's identity
- Understand past licensing records
- Ensure candidate meets “fit and proper” criteria

1. Onboarding

Particular focus on academic qualifications



- ❖ Ensure authentication requirements are fulfilled for academic certificates for Mainland China
- ❖ Ensure the academic certificate is “equivalent” to the qualifications specified in GL23

Particular focus on adverse records



- ❖ Ascertain any bankruptcy, disciplinary or criminal records
- ❖ Any mitigating factors and extra monitoring controls

2. CPD

Objectives:

- ❖ Licensees can meet the CPD requirements in accordance with GL24
- ❖ Licensees will refresh and keep abreast with the updated insurance knowledge, ethics and regulatory requirements



For Assessment Period 2021/22: 9.3% non-compliance rate + CPD League Table

1 Arrange Training (e-learning)

2 Ongoing Monitoring

3 Internal Advance Date

4 Internal Disciplinary

5 Onboarding & Exit Communication

6 Reporting

3. Premium Collection

Objective



Risk of intermediaries misappropriating premium

Risk of intermediaries mixing /not passing on premium to insurers in a timely manner

Risk to policyholders not having the certainty of effective coverage

Internal Control Measures and Processes

- ❖ Train intermediary that they must only collect premium in accordance with their authority
- ❖ Communicate the payment channels with clients by which payment can be made
- ❖ Inform clients of vital changes to the status of their policies
- ❖ Identify intermediaries with low persistency ratios, high levels of lapses/APLs/sudden increases in numbers of policies.
- ❖ When red flags are identified, consider doing sample audit calls of policyholders

4. Cross Border Selling

Objective



To limit the risk of carrying on sales activities in other jurisdictions in contravention of the laws of those jurisdictions

The risk is particularly prevalent for insurers who sell insurance to Mainland China Visitors

Internal Control Measures and Processes

- ❖ Clear policy in place indicating that intermediaries must not carry on sales activities in the Mainland without proper license
- ❖ Reinforce in the onboarding training and also in annual refresher training
- ❖ Zero tolerance approach
- ❖ Mystery shopping exercise is a useful way of reinforcing this message

5. Non-disclosure / Misrepresentation

Objective



Risk of claim disputes due to material non-disclosure

Ensure intermediary does not mislead or deceive client and that any representation or information provided is accurate

Internal Control Measures and Processes

- ❖ Training, training, training! If in doubt, please disclose!
- ❖ Ensure intermediaries to take the policyholder through the statement in the application form they have to sign
- ❖ Be alert when intermediaries are asked – policyholders keep conversation records!
- ❖ Clear product information/documents, and ensure agent only uses materials supplied or approved by the insurer
- ❖ **Social media** policy
- ❖ Ongoing monitoring & proper disciplinary process

6. Cooling Off

Objective



To avoid the risk of cooling off period being ineffective (**GL29**)

To avoid the risk of policyholders not being able to make a fully informed decision

No Reason why policies cannot be delivered within the 9-calendar-day period

Internal Control Measures and Processes

- Insurer to deliver policy direct to the policyholder, OR
- Require intermediaries to provide receipt as evidence that the policy has been delivered on time

Roadmap after the Transition Period

During 3-year transitional period

Focus on licensing and educating the insurance intermediaries, and reinforcing the relevant regulatory requirements under the new regime

After 3-year transitional period

- Increasingly focus on standards of conduct, ethical business practices and the governance of the appointing principals through routine inspections
- More engagements with principals, especially, principals with large agency forces on a day to day basis

Part 3: Enforcement

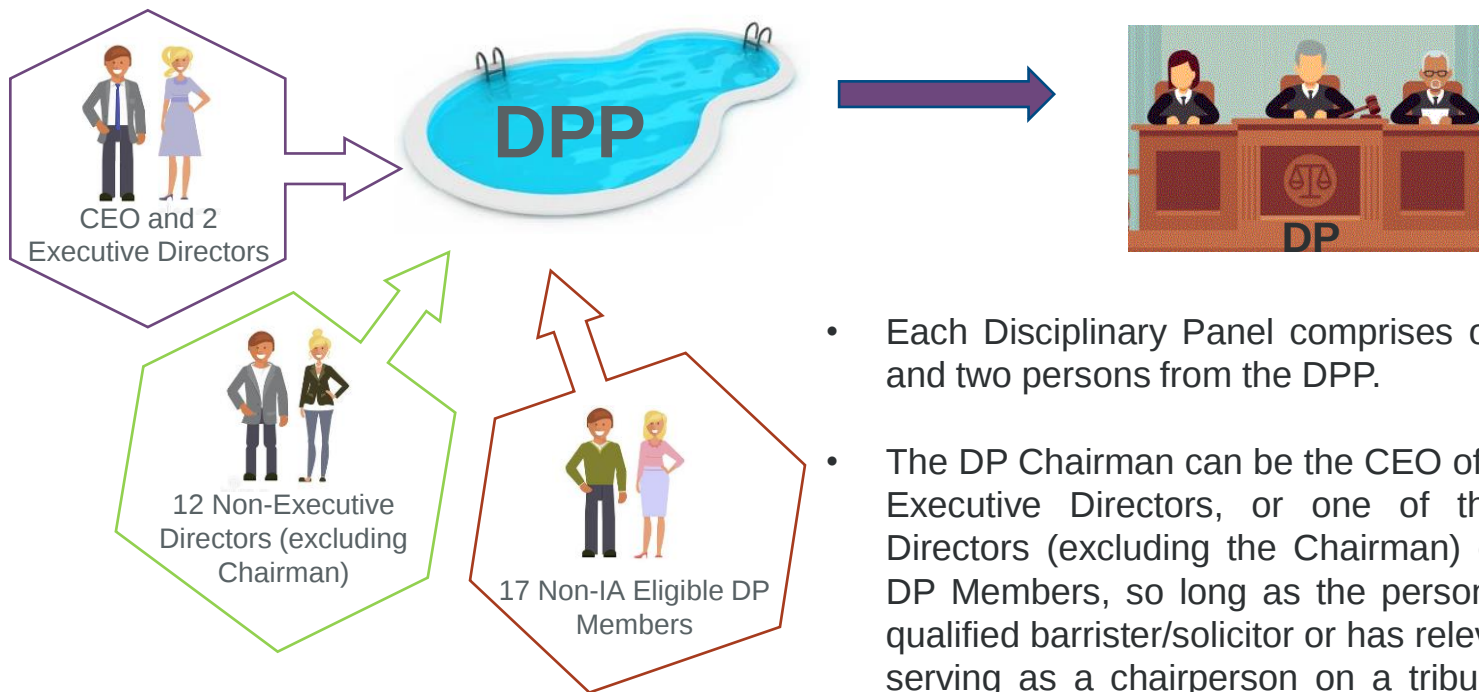




The Insurance Authority's enforcement approach is to reinforce the conduct standards with a credible threat of disciplinary action where priority is given to cases involving:

- **Harm to policyholders**
- **Unethical sales and business practices**
- **Weakness in proper corporate governance**

Disciplinary Panel Pool



- Each Disciplinary Panel comprises of a DP Chairman and two persons from the DPP.
- The DP Chairman can be the CEO of the IA, one of the Executive Directors, or one of the Non-Executive Directors (excluding the Chairman) or Non-IA Eligible DP Members, so long as the person is a Hong Kong qualified barrister/solicitor or has relevant experience of serving as a chairperson on a tribunal or other body similar to the DP.

Disciplinary Process



**Commenced by
issuing the Notice
of Proposed
Disciplinary Action
("NPDA")**

- NPDA sets out:**
- The misconduct/breach of regulation of the regulated person suggested by the IA;
 - The facts and evidence relied on by the IA in suggesting there has been misconduct
 - The proposed disciplinary action
 - The right of the regulated person to be heard and to respond to the NPDA and put his side of the story to the Disciplinary Panel

**The Disciplinary
Panel is then
empanelled to
consider
representations
and to decide.**

Disciplinary Action – Corporate Governance

In March 2023, the Insurance Authority reprimanded Convoy Financial Services Limited and Convoy Financial Solutions Limited and has ordered each to pay a fine of \$95,000 (total \$190,000) for failing to keep separate client accounts and maintain proper books and records.

保監局譴責康宏理財兩公司違規 罰款19萬元



Disciplinary Action – Corporate Governance

In January 2022, the insurers formerly known as Metlife Limited and Metropolitan Life Insurance Company of Hong Kong Limited were reprimanded and ordered pay a pecuniary penalty of HK\$7 million for contravening 7 specified provisions of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance during the period from January 2015 to October 2017.

保監局譴責大都會人壽保險 罰款700萬元

保監局譴責兩間前保險公司 要求支付700萬元罰款

保監局就多項違反《打擊洗錢及恐怖分子資金籌集條例》規定予以譴責並施加700萬元罰款

2022年1月31日

保險業監管局（保監局）譴責前身為大都會人壽保險有限公司及美商大都會人壽保險香港有限公司的保險公司（該等公司），違反《打擊洗錢及恐怖分子資金籌集條例》（第615章）（《打擊洗錢條例》）的七項指明條文^{1, 2}，並指示該等公司支付港幣700萬元的罰款。

Disciplinary Action – Cross Border Selling

In July 2021, a former licensed individual insurance agent was reprimanded and prohibited from applying to be licensed for 5 months for having sent a message through his social media account seeking to use the COVID-19 as a means of encouraging people to escape the pandemic by leaving Hubei Province to come to Hong Kong to purchase insurance from him.



保監局譴責任煒書並禁止其重投業界五個月

2021年7月7日

保險業監管局（保監局）就保誠保險有限公司（保誠保險）委任的前個人保險代理人任煒書¹違反《保險業條例》（第41章）（《條例》）及《持牌保險代理人操守守則》（《操守守則》），對他予以譴責，並禁止他由2021年6月28日至2021年11月27日的五個月期間向保監局申請成為持牌人士。

有關紀律行動源自任先生於2020年1月23日透過其社交媒體帳戶向其通訊錄上的所有人士發放訊息，以當時爆發新型冠狀病毒（2019冠狀病毒病）疫情為由，鼓勵收到訊息的人士從湖北省來港以避開疫情及向他購買保險。該訊息發出之時，正值香港特別行政區政府對湖北省採取旅遊限制，以避免病毒的傳播。該訊息引起公眾廣泛關注，保監局亦收到多宗與之有關的投訴。

Disciplinary Action – Mishandling Premium

In January 2023, the Insurance Authority revoked the licence of an insurance agent and prohibited her from applying to be licensed again for 11 months. The insurance agent received monies from her client deposited into her personal bank account but failed to pass it to the insurer. The premium was used to reinstate the client's insurance policy, but the payment was not made until 11 months later.

During this 11-month period, the agent made misleading statements to both her client and her appointing insurer, misleading them about the status of the premium payment.

一名保險代理人因不當處理客戶保費被保險業監管局撤銷牌照及禁止重投業界11個月

2023年1月27日

保險業監管局（保監局）向一名保險代理人採取紀律行動，撤銷其代理人牌照及禁止她於11個月內申請成為持牌人士。施加有關懲處是由於該代理人未有恰當及妥善處理從客戶處所收取的若干保費。

該代理人於2018年10月2日自其個人銀行帳戶收取了從客戶匯入的款項，以便支付予其委任保險公司。該筆保費是用作復效客戶於2018年9月28日已失效的保單。然而，該代理人並未有將該保費交付予其委任保險公司，並延至2019年9月3日（即收悉款項後11個月）才交付保費。

- **2,686** Notices of Proposed Disciplinary Action issued against individual licensees who failed to attain the required CPD hours
- **930** individual licenses investigated for failing to submit or late submission of their completed CPD Declaration Form
- **534** disciplinary actions
- **HK\$3.4M** in pecuniary fines



Continuing
Professional
Development (CPD)

持續專業培訓(CPD)



7 March 2023 – Launch of Enforcement
Correspondence Platform of Insurance
Intermediaries Connect

**Insurance
Intermediaries Connect**

保險中介一站通

CPD Assessment Period 2022/2023

31 July 2023	Deadline to attain CPD hours • 15 CPD hours (with 3 CPD compulsory hours on “Ethics & Regulation”) for <u>individual licensee</u> (except travel agents) • 3 CPD hours (with no compulsory hours on “Ethics & Regulation) for <u>travel agents</u>
30 Sep 2023	Deadline to submit completed CPD Declaration Form to appointing principal or to IA directly via Insurance Intermediaries Connect

Prevalent Misconduct Enforcement is looking into

- Cross border solicitation
- Mishandling or misappropriation of client's premium
- Giving wrong advice
- Failure to diligently handle client's general insurance application or renewal of general insurance application