

Chairman's Message



Although the COVID-19 situation in Hong Kong seems under control in comparison to many other places around the world, the pandemic continues to deal major blows to the general insurance industry. In early September 2021, Lloyd's of London announced a payout

of 2.4 billion pounds in pandemic-related claims for the first 6 months, even though it posted a pre-tax loss of 438 million pounds. For context, it reported a 2.3 billion-pound profit a year earlier. This shows that market hardening and capacity shrinking seem to be unavoidable in certain lines of business.

The Insurance Authority (IA)'s new CPD assessment period started from 1 August 2021. In association with

professional bodies like the Chartered Insurance Institute (CII), Australian and New Zealand Institute of Insurance and Finance (ANZIIF) and the Risk and Insurance Management Society (RIMS), CIB is offering more high-quality CPD courses to our members, including contents relating to "Ethics or Regulations" under the new requirements.

Before CIB's Annual General Meeting in early December, more details about the election of CIB's General Committee members for the coming term will be announced in November. We welcome any experienced insurance practitioner who has the passion and commitment to work for CIB, to register as a candidate for the election.

Stay safe and healthy! ■

Yours sincerely,

Patrick Chan
Chairman | October 2021

Negotiating Stormy Seas

CIB Goes Green

Sadly, this will be the last time that the CIB Bulletin appears in printed form. Like many historic newspapers and magazines before it, it is finally succumbing to the irreversible march of electronic media. Call this the brokers' response to risk management and the need to conserve our forests, but fear not – you will continue to receive regular Bulletins online, with its usual mix of news, industry developments, helpful information on compliance and Insurance Authority (IA) requirements as well as forthcoming events and CPD seminars.

The current form of the Bulletin was resurrected in May 2018, when the CIB General Committee recognised the need to keep members abreast of regulatory and procedural developments in the run-up to the transfer of broker self-regulation from CIB as an SRO to direct regulation by the newly established IA in September 2019. After 10 issues, we believe that this Bulletin series has fulfilled its purpose, and we thank you for your complimentary remarks in recent years.

As the Bulletin enters the new electronic age, we endeavour to maintain the same high standards of news and information as industry and regulatory compliances continue to develop. If you have any suggestions for additional topics you would like to see in future editions, please contact the Secretariat at bulletin@hkcib.org or 2882 9943.

CPD Requirements for the New Assessment Period

All technical representatives should be planning their CPD attendance for the New Assessment Period which runs from 1 August 2021 – 31 July 2022. Here are some reminders:

- Each assessment period starts from 1 August each year and ends on 31 July of the following year
- Technical representatives who are licensed for the whole assessment period are required to complete 15 CPD hours
- Out of the 15 CPD hours, a minimum of 3 CPD hours should be allocated to "Ethics or Regulations"
- Excess CPD hours cannot be carried forward to the next assessment period
- CPD hours may be acquired by attending face-to-face activities in a traditional classroom setting, in virtual classroom mode or via e-learning
- E-learning is a new mode of CPD activity through which a user may subscribe to or view materials online and complete an online assessment afterwards – anytime and anywhere. A maximum cap of 7 CPD hours can be acquired via e-learning for each assessment period.

Ethics – Think Outside the Tick-box

From 1 August 2021, all technical representatives are required to attend a minimum of 3 CPD hours on “Ethics or Regulations” during each assessment period. As defined in the Guideline on Continuing Professional Development for Licensed Insurance Intermediaries (GL24), “regulations” include local legislations, rules, regulations, codes, guidelines and best practices directly relating to the work of insurance intermediaries; while “ethics” includes ethical principles concerning integrity, fairness, due care and diligence, good faith and objectivity, best interests of clients, accurate representation, clear and accurate disclosure of information, conflicts of interest, confidentiality and professional competence. The definition of “ethics” also echoes the catchphrases of the 8 General Principles in the Code of Conduct for Licensed Insurance Brokers.

The new requirement demonstrates the Regulator’s commitment in building a high integrity culture within the insurance industry. A high integrity culture goes beyond compliance as we know it, elevating tick-box compliance to the question: “Are we doing the right thing?”

Companies today typically work with different compliance checklists. While these checklists are useful in ensuring that all necessary procedures are completed, verified and checked, they only ensure compliance at a minimum level, which is sometimes not on par with the Regulator’s requirement.



In its recently circulated Future Task Force materials, the Regulator has admonished the failure of tick-box compliance regulation, citing the example of the 2008 global financial crisis. In the process, all tick-boxes were checked – from the granting of sub-prime mortgages to the ultimate collapse of Lehman minibonds. “Is it legal?” “Are all regulations complied with?” “Is it allowed?” Nobody stopped to ask: “Is it the right thing to do?”

The danger of tick-box compliance is that it removes ethics from business decision making. Procedures are broken down into compartmentalised “Yes/No” boxes to be filled out by technical representatives and administrative staff. Happy to see all the little green ticks on the checklists, the supervisor or compliance officer may become complacent with the (false) sense of compliance without looking at the bigger picture or asking that all-important question: “Is it the right thing to do?”

On our end, for example, when we conduct a financial needs analysis, we typically fill out FNA forms with objectives, the products required, protection period, income and assets, source of funds and the like. However, all the information may still not be enough for us to make recommendations to clients because the extent or level of detail depends on the clients’ particular circumstances. The answers on the FNA forms may also be

inconsistent with the clients’ other background information, such as family status, education, occupation or even their demeanour during meetings. These inconsistencies should raise red flags as to the affordability and suitability of the insurance policy being applied for, prompting us to ask the question: “Is it the right thing to do?”

The shift from tick-box compliance to doing the right thing is an attitudinal change brought about by the Regulator through its rules and regulations, as well as its disciplinary penalties. Insurance broker companies must catch on fast and set the right tone from the top; set expectations for ethics and employee conduct; and work together to build a high integrity culture.

A company may establish a bespoke mission statement adopting general code of conduct principles. More importantly, it should embed those principles into its business practices. Instead of handing technical representatives and administrative staff a checklist to tick and instructing them what to do, it should integrate the checklist into the underlying principles and explain why they need to be followed.

Responsible officers and senior management need to be visibly leading by example across the company by embodying their conduct principles, not only during training sessions or formal meetings, but also in their everyday interactions. In the end, the catchphrases of the 8 General Principles in the Code of Conduct should be instinctively manifested across their insurance practice.

In the process, we can keep our eyes on the benefits of building a high integrity culture. Compliance, tick-box or otherwise, should not be seen negatively as a chore only to avoid disciplinary penalties in terms of hefty fines or licence suspension. Instead, compliance can be used as a marketing tool and business enabler.

By building a high integrity culture within the company, we set ourselves apart. The embedded ethical attitudes, values and norms of employees will be naturally demonstrated when they interact with existing and potential clients, as well as other stakeholders. This way, we build up trust to enhance sustainable business relationships with clients, along with a reputation for trust which will create ripple effects to further extend our client base. Ultimately, in taking out insurance to prepare for the time when our clients or their business are the most vulnerable or to enjoy the yields of long-term insurance past retirement, either way it is the time when our clients need to be working with business partners they can trust – which goes above and beyond ticking any box.



GL 25 from the CIB's perspective

Contributed by BS Rath, Immediate Past Chairman of CIB

The Guideline on Offering of Gifts (GL25), which applies in relation to the sale of long-term insurance products, came into effect on 23 September 2019. The Guideline on Medical Insurance Business (GL31), which applies in respect of medical insurance business, came into effect on 23 September 2020. Due to COVID 19, the Insurance Authority ("IA") by its circular dated 25 May 2020 announced flexibility in determining compliance with the requirements of these (and certain other Guidelines) until 31 March 2021 (expecting full compliance by 1 April 2021).

The CIB has raised concerns on the restrictions in these Guidelines regarding the ability of brokers to offer rebates to their clients from their available commission. In March 2021, CIB put up its Position Paper to IA which was followed by a detailed discussion. This article intends to summarise the Position Paper of CIB, the discussions with IA and its outcome.

CIB's Position Paper discussed the provisions in Insurance Core Principle 19 (ICP 19) concerning fairness to the client (ICP 19.2.4). ICP 19.2.4 emphasizes the need for insurers and intermediaries to adopt fair treatment of customers as an integral part of their business culture, stating the following:

"Reward: Remuneration and reward strategies should take account of the fair treatment of customers. Reward structures need to reflect quality issues and not encourage or reward the unfair treatment of customers. Remuneration structures that create conflicts of interest may lead to poor customer outcomes."

Whereas CIB agreed with the above entirely, it considered GL25 could have offered greater flexibility to brokers to achieve the very fairness to the customer as mandated in ICP 19. Brokers decide their commissions/remuneration, whether built into the premium or when charged as a fee; based on various factors. CIB cited some of the following:

- the size of premium for particular insurance placed;
- the overall level of business between the client and the broker based on the overall relationship between them;
- the extent of the work required of the broker in relation to the placement; and
- the level of sophistication of the client.

CIB stated that not to be able to recognise the above factors of this nature would give rise to unfairness to the client. CIB cited the provisions in GL31, Guideline on Medical Insurance Business. It constrains making of gifts or rebates by insurance brokers of brokerage by way of return of premium as it would be covered by the definition of "Gift". However, in relation to insurance brokers, there is an exception as long as such rebates are expressly recorded in either the document setting out the quotation which is issued by the broker company to the policy holder, or in the premium debit note, invoice or similar document issued by the broker company to the policy holder for the purpose of collecting the premium from the policy holder.

CIB also discussed the Anti-Trust/Competition Law and Freedom and the Sanctity of Contract between broker and client. Although in many cases brokerage commission is paid out of insurance premium paid to the insurance company,

it is a payment made to the broker by virtue of a contract between the broker and the client. Therefore, the level of brokerage commission is, like any other contractual provision, something for agreement between the broker and the client.

CIB was of the view that restrictions on gifts should have been addressed more widely, so as to cover all classes of insurance not just long-term and medical ones.

CIB's Meeting with the IA

CIB and the IA had a comprehensive discussion on the two Guidelines, the ICPs and the CIB's position paper. The IA acknowledged many of our points to be relevant. However, the IA conveyed the need to proceed with the Guidelines in their current form, as the restrictions on rebates (particularly in GL25) were necessary to address important matters regarding the protection of policyholders which were very much "live" issues at the moment (particularly situations where rebating of commissions had served as a substitute for giving adequate and appropriate advice at the point of sale). The IA did state, however, that it would take full account of the CIB's concerns, keep this aspect of the Guidelines under review and revisit them once it had gathered sufficient information to consider refining the restrictions to address the CIB's concerns, whilst maintaining policyholder protection. CIB acknowledged the approach of IA at this point of time and decided it will continue its engagement with IA on this very important issue and will meet IA after a couple of years by which time IA would have dealt with the issues on hand or would have gathered enough information to work on our position paper.

Penalty Framework for CPD Non-compliance

Recently, the Insurance Authority (IA) issued the penalty framework for CPD non-compliance. The complex framework has been simplified in below table to cover typical situations for reference only and does not constitute legal advice. The below penalty framework is applicable to technical representatives only. Broker companies should have adequate controls and procedures in place to monitor their technical representatives' CPD compliance, the absence of which may reflect negatively on the fit and proper status of their company, directors and controllers.

Non-compliance	Maximum Penalty
Shortfall of less than 8 hours	A fine of HK\$600/hour of shortfall
Shortfall of 8 hours or more	A fine of HK\$600/hour of shortfall + Suspension of licence for at least 3 months
Failure to rectify shortfall by 31 October or to pay fines within 2 months of imposition	Suspension of licence for at least 3 months
Late submission of CPD declaration form without reasonable excuse	Suspension of licence for at least 3 months
Failure to rectify shortfall or pay fines within initial 3 months of suspension	Revocation of licence
Failure to submit CPD declaration form	The IA may invoke investigatory powers. Failure to comply with the IA's request for information will constitute a criminal offence and give rise to disciplinary action.
Provision of false information in CPD declaration form	Revocation of licence + 12 months prohibition

Negotiating Stormy Seas

Our 18th CIB Annual Conference will be held at The Park Lane Hong Kong on 25 October 2021 (Monday). Reflecting on the impacts of COVID-19, Recession, Global Warming, Fintech and Regulation, it will showcase “INSURANCE BROKING IN A CHANGING WORLD” as its main theme and feature insightful speakers detailing the challenges that insurance brokers are facing today.

Forced to go virtual last year, the highly regarded annual event will be a welcomed opportunity for the insurance broking community to get together again in person. To ensure a safe environment, The Park Lane Hong

Kong will be making all the necessary arrangements to comply with COVID-19 regulations. On the other hand, to accommodate those who are unable to attend for various reasons, the conference will be recorded live and replayed as a virtual webinar on the following Monday (8 November 2021). Please look out for our CIB Circular for more booking and conference details. Participants at both the conference in person and the webinar will be entitled to 3 IA CPD points.

We look forward to seeing you! ■

First IA Disciplinary Case

The Insurance Authority (IA) has recently released the details of its first disciplinary ruling in which an insurance agent was reprimanded and banned for 5 months. Although this case relates to an agent, the rules that were cited generally apply to insurance intermediaries including brokers. Brokers

should be aware of the way that the IA has approached this case as a guide to the strict application of regulations in cases that may involve them in the future. For the full case details, please visit: https://www.ia.org.hk/en/infocenter/press_releases/20210707_1.html

Upcoming FIS CPD Webinars

Listed below are our upcoming FIS CPD webinars scheduled for November and December 2021. Please look out for other local CPD webinars in both Cantonese and English that have yet to be announced.

Date	Time	Topic	Contributor
2 November (Tue)	9:30am – 12:30pm	Extreme Weather Events and Climate Change – Emerging Liability Risks (Increased Climate-related Litigation)	ANZIIF
3 November (Wed)	9:30am – 12:30pm	Extreme Weather Events and Climate Change – Emerging Liability Risks (Potential Impact to Insurance in the Future)	ANZIIF
23-24 November (Tue – Wed)	9:30am – 12:30pm	The Science of Risk Management (Part I)	RIMS
25-26 November (Thu – Fri)	9:30am – 12:30pm	The Science of Risk Management (Part II)	RIMS
December	-	Marine Cargo Insurance	CII
December	-	Directors and Officers Insurance	CII

We are pleased to announce our first partnership with the Risk Management Society (“RIMS”) to offer high quality CPD courses. Founded in 1950 and headquartered in Manhattan (US), RIMS is a professional association dedicated to

advancing the practice of risk management. It represents more than 3,500 industrial, service, non-profit, charitable and government entities around the world today.

For more webinar details, please see our CIB Circulars.

Talk to us today – CIB is your voice within the industry!

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