

Chairman's Message



Thank you for renewing your membership with CIB. Your continuous support is important for our future development, as we continue to uphold the professionalism and representation of our members.

With COVID easing off, various restrictive measures are being relaxed in stages and businesses are slowly resuming operations. As insurance brokers, we are also adapting to the new normal and helping our clients protect their risks in the recovering economy. To cover this subject in greater detail, we are planning to host the CIB Annual Conference in the last week of October 2022 and hope to see you there. More details on the conference will be announced later.

We were excited to learn that the insurance industry was included in the newly launched Government "Employment Support Scheme" (ESS). This will provide our members with some financial relief, as their businesses have been impacted by COVID to varying degrees. Through it all, our members have been diligently taking care of their clients' interests, renewing and closing required covers amid remote working and partial shift arrangements. When businesses and economies fully bounce back from COVID, we hope that our members will benefit from the growing opportunities in Hong Kong and the region.

As a financial centre and insurance hub in Asia, it is vital for Hong Kong to attract and retain talent to ensure the city's long-term success. As such, the government has been lifting several travel restrictions to allow for the reintroduction of business travel, in enabling Hong Kong to keep pace with industry trends.

To that end, CIB continues to conduct regular meetings with the IA to represent the interests of our members and their role in the future development of the Greater Bay Area. We are also in discussions with the IA about initiatives that can strengthen Hong Kong's position as the regional insurance hub and welcome any opportunities for our members to contribute and support.

Along with our revamped CIB website, we have just launched our LinkedIn and Facebook pages, through which we hope to communicate and connect more with our members. Until then, we wish all of you good health and look forward to meeting you in person soon. ■

Yours sincerely,

Alex YIP
Chairman | July 2022

REPRESENTING YOUR INTERESTS!

Amended CPD Requirement

Although the CIB has provided its members with more-than-adequate, first-class CPD seminars enabling them to easily achieve the 15 points required by the 31 July 2022 completion date, other intermediary organisations have not been as successful. The CIB has enquired of the IA about the reason behind its recent Circular to intermediaries advising that despite the reduction in the number of CPD hours required by 31 July 2022 to 12, it still includes 3 hours of regulations and ethics. The IA has responded that the reduction was allowed because other intermediary bodies had complained of difficulties faced by their members in meeting the usual requirement of 15 hours due to COVID. Why this reduction was necessary given easy access to Zoom and other virtual materials remains unclear.

Members are therefore reminded that all TRs must achieve 12 hours by 31 July 2022 and get them signed off by their employer by the end of September. The employer must report these via the IA Portal by the end of October. Alternatively, the IA Portal has recently added a new function for TRs to submit CPD declarations directly to the IA. In which case, the TRs should notify the employer that they have done so and the employer will still be required to verify the reported status against its internal compliance monitoring records afterwards.

The IA has also ruled that any excess hours obtained by members cannot be carried forward to the following year. ■

IA disciplinary process and recent disciplinary decisions

A broker's typical day involves juggling phone calls, emails, and business meetings – including virtual ones. However, the least-wanted kind of communication is a complaint from a client or worse, an investigation notice from the regulator. Brokers are always encouraged to address and resolve a client's complaint directly, but when trust breaks down or the client chooses to lodge a complaint with the Insurance Authority (IA) for whatever reason, it will set the disciplinary process in motion. There are also non-compliance cases such as breaches of minimum financial requirements or CPD requirements, which may be uncovered during the compliance reporting process or IA's on-site inspections.

Complaints and non-compliance cases alike are handled by the Market Conduct Division of the IA through the process described below:



Assessment: The IA will carry out a preliminary assessment of the merits of a case. At this stage, the IA may contact the broker company and the technical representative (broker) concerned, requiring them to address the allegations. At the end of the assessment stage, the IA will form a view as to whether it has reasonable cause to believe that there is possible misconduct or fit and proper issues of a licensee. If so, it will proceed to the next stage.

Investigation: At this stage, the person under investigation is required to comply with the investigation notice to produce documents, give a written explanation of events, or attend interviews. At the end of this stage, the investigator will form a view as to whether, based on all the evidence gathered, the allegations are substantiated.

Disciplinary proceedings: The person under investigation will receive a Notice of Proposed Disciplinary Action (NPDA) which must be responded to by way of written submissions or by requesting for a meeting with the disciplinary panel (see box below). If no response to the NPDA is provided before the deadline, a decision will be made *in absentia*.

Appeals: An appeal against the decision of the disciplinary panel will be heard outside the IA by the Insurance Appeals Tribunal (IAT), which is established by the Financial Services and the Treasury Bureau of the HKSAR government.

Published decisions

To date, most of the published decisions of the IA and the IAT are transitional cases, meaning that they are cases where the relevant non-compliance case or incident which gave rise to the complaint happened before 23 September 2019, i.e., the commencement date of the direct regulation of licensed insurance intermediaries by the IA. These cases will be decided in accordance with the rules, regulations, and penalty guidance of former self-regulatory organisations, but under the new disciplinary process of the IA.

Disciplinary Panel Pool, Expert Advisor Panel, and the Insurance Appeals Tribunal

The disciplinary panel is selected from the Disciplinary Panel Pool which includes the IA's executive and non-executive directors, as well as professionals from the legal and financial services sectors who are appointed by the IA. The IA has also formed an Expert Advisor Panel, which is comprised of experts in the insurance practice to give the IA technical advice during the investigation process. Some members of CIB's disciplinary committee, disciplinary appeals committee, and executive committee have accepted appointments into these two panels as well as the Insurance Appeals Tribunal.



Recent disciplinary decisions

Issuing Date	Party	Matter	Penalty
Insurance Authority			
28/05/2021	2 insurance broker companies	Failure to submit audited financial statements and the auditor's reports within 6 months after the financial year end	Fines + Suspension of one party
07/07/2021	An insurance agent	Failure to comply with the insurer's internal policy on cross-border selling practices, failure to carry on regulated activities with integrity and failure to exercise due care, skill, and diligence	Reprimand + Prohibition for 5 months
22/12/2021	A licensed insurance broker company	Failure to submit audited financial statements and the auditor's reports within 6 months after the financial year end	Fines + Suspension
10/01/2022	91 licensed individual insurance agents	Non-compliance with CPD requirements during the assessment period from 1 August 2018 to 31 July 2019	Revocation + Prohibition for 3 months and until rectification
31/01/2022	2 insurers	Multiple contraventions of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance during the period from January 2015 to October 2017	Reprimand + Fines of \$7 million
08/03/2022	A technical representative (broker)	Imposition of a 40-month suspension on the subject by the Mandatory Provident Fund Schemes Authority. The IA took the subject's conduct and disciplinary action into account and deemed him not a fit and proper person.	Prohibition until 14 July 2024
17/03/2022	3 individuals	Use of false academic certificates when applying to be insurance agents	Prohibition for up to 3 years
20/06/2022	A technical representative (broker)	Mishandling client's money and submitting false information to the insurer to cover up erroneous conduct	Prohibition for 5 months
Insurance Appeals Tribunal			
30/09/2021 (date of determination)	An insurance agent	The subject did not declare her bankruptcy in her registration application in 2014 and 2017. The Insurance Agents Registration Board (IARB) issued a reprimand for her failure to conduct business in good faith and with integrity and refused her registration on the account of her bankruptcy. The subject applied to the IAT to get the IARB's decision reviewed.	IAT applied a strict interpretation of the words "conducting business" and found that completing a registration form does not reasonably form part of conducting business and vacated the reprimand. The IAT upheld the IARB's decision to refuse her registration.

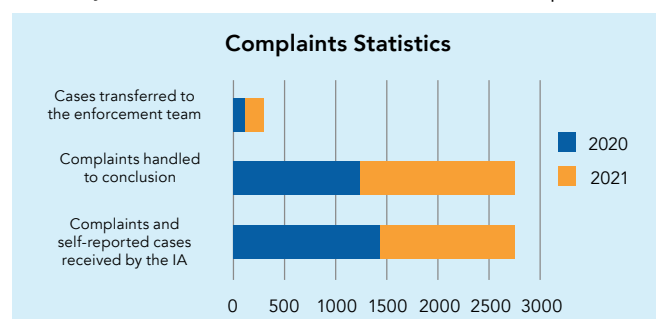
Insurance Appeals Tribunal (Case No.IAT/IARB/11/2019)

The above IAT decision against the insurance agent failing to declare her bankruptcy order is worth reading. The hearing was held before a three-member tribunal chaired by a senior counsel, which conducted the review by way of a de novo hearing during which the subject was given the full opportunity to present her case. The tribunal handed down a written decision detailing the background facts, legal authorities, and reasoning. The following principles were articulated in the decision:

- An allegation of breach of good faith and integrity is tantamount to one of dishonesty. Given the seriousness of the complaint, the rule must be construed strictly.
- The standard of proof for disciplinary proceedings is the civil standard. The more serious the act or omission alleged, the more compelling evidence is needed to prove it.

Of course, the above decision is not binding on the IA or subsequent IAT decisions, but it seems to carry a more balanced approach which may alleviate the harshness of any disciplinary decision or penalty.

Recently, the IA has issued some statistics of complaints:



From these statistics, one can observe that the number of cases handled to conclusion and transferred to the enforcement team increased in 2021 despite a decrease in the number of complaints. This trend shows that our regulator is speeding up its enforcement processes and one should expect more disciplinary decisions to be issued in the days to come. Brokers must be vigilant in keeping up with regulatory developments and bring their business practices up to par to avoid becoming part of the statistics. ■

G20/OECD High-Level Principles on Financial Consumer Protection

Contributed by BS Rath, Past Chairman

Early this year, the Organisation for Economic Cooperation and Development (OECD) attended a consultation on the revisions to High-Level Principles for Financial Consumer Protection, which were developed by the G20/OECD-appointed Task Force. The World Federation of Insurance Intermediaries (WFII) also participated in the consultation. This article is a summary of the important principles, recommendations and WFII's comments.

Principle 1: Legal, Regulatory and Supervisory Framework

Paragraph 2: The draft states, "Financial consumer protection should be an integral part of the legal, regulatory and supervisory framework; it should be comprehensively integrated across financial products and services and should reflect the diversity of national circumstances and global market and regulatory developments within the financial sector." The WFII suggested taking specificities of the different financial sectors into account. It is important that the legal, regulatory and supervisory framework of a particular jurisdiction is factored in, in which financial consumer protection is embedded.

Paragraph 5: The draft states, "Financial services providers and representatives should be appropriately regulated and/or supervised, with account taken of relevant service and sector specific approaches." The WFII suggested using the more neutral term "intermediaries and/or distributors" here and throughout the draft. The WFII also suggested including "proportionately to their size" and supervision on a level playing field.

Principle 2: Role of Oversight Bodies

The draft states, "Oversight bodies should regularly assess the effectiveness of supervision tools and sanctions mechanisms." The WFII suggested that reviews should be done by an external body, i.e., the Government itself or a parliamentary committee. The regulator must not be reviewing its own effectiveness.

Principle 7: Disclosure and Transparency

The draft states, "In particular, appropriate information should be provided on material aspects of the financial product. Appropriate information should be provided at all stages of the relationship with the consumer." The WFII suggested adding the word "relevant" after "appropriate".

Principle 8: Quality Financial Products

Paragraph 21 stipulates appropriate product oversight and governance by manufacturers/providers and their responsibility to ensure the suitability of the products for consumers. Paragraph 22 deals with the promotion of quality financial products and related R&D and suggests carrying out testing before launching. The WFII suggested this to be undertaken by the manufacturers of these products.

Principle 9: Responsible Business Conduct and Culture of Financial Services Providers and Representatives

Paragraph 23 deals with the best interest of consumers and Paragraph 28 deals with the remuneration structure of both financial services providers and representatives. It should be designed to encourage responsible business conduct, fair treatment of consumers and to avoid conflicts of interest. The WFII suggested using the word "manage" in conflicts of interest rather than "avoiding".

Principle 12: Complaints Handling and Redress

The draft states, "Jurisdictions should ensure that consumers have access to adequate complaints handling and redress mechanisms that are accessible, affordable, independent, fair, accountable, timely and efficient." The WFII suggested that this should be proportionate to the size of the financial services provider.

Information source: OECD draft document and WFII's response ■

Continuing Dialogue with the IA

The CIB takes its responsibility to represent its members' interests to the Insurance Authority (IA) very seriously. Despite difficulties in meeting both formally and socially over the past months due to COVID restrictions, the CIB has maintained a continuing dialogue at both senior and working levels regarding issues of importance and interest to insurance brokers.

Over the long term, we have been in discussions with the IA to present our views on the issue of building Hong Kong as a regional hub for insurance, reinsurance, and captive management, as well as the need to maintain and develop an employee base with the talent and expertise to enable this. In line with this, we have made extensive overtures and presented three papers to the IA with follow-up virtual meetings to promote access for smaller and medium-sized brokers to support Hong Kong companies and entrepreneurial start-ups entering and setting up businesses in the Greater Bay Area (GBA). Doing so enables Hong Kong brokers to develop the sophisticated coverage necessary for local insurers to achieve technology transfers, while also encouraging Hong Kong entities to take the challenging step into the GBA with the support of their trusted professional insurance advisors, as they already have with their lawyers and accountants. These matters are ongoing.

The CIB has highlighted to the IA the measures taken by its members in response to the pandemic in view of the

problems this has created both in Hong Kong with teams of employees working from home, the difficulties of communicating with both clients and insurers with restrictions on meetings and face-to-face discussions, as well as the added challenges of dealing with overseas markets. These difficulties have been compounded especially by the hard market conditions created by the increase in natural disasters resulting from global warming and the pandemic.

On a week-by-week basis, the CIB monitors changes to regulations and guidelines, raising points to the IA for consideration where necessary. Examples of miscellaneous issues that the CIB reviews and comments on where necessary have recently included proposals on Premium Financing, Notes on the Green Light Process for Assessment of ILAS Products against Standards in the Guideline on Underwriting Class C Business (GL15), and consequential updates to the Interpretation Notes for the Guideline on Sale of ILAS Products (GL26 Interpretation Notes).

The CIB is recognised as having taken a consistent, professional, and responsible view of regulatory matters over the years and continues to maintain a good working relationship with the IA in its role as representative of a substantial portion of the professional insurance broking fraternity in Hong Kong. ■

Upcoming CPD Webinars

Listed below are quality CPD webinars scheduled for July and August 2022. Please keep an eye out for additional local CPD webinars in both Cantonese and English that are yet to be announced.

Date	Time	Course Title	Language
6 July (Wed)	3:00pm – 6:00pm	Claims Handling – Principles that Relate to Claims	English
7 July (Thu)	3:00pm – 6:00pm	Claims Handling – Post-Claim Considerations	English
8 July (Fri)	9:30am – 12:30pm	Code of Conduct for Licensed Insurance Brokers (Related to Ethics or Regulations)	English
25 July (Mon)	9:30am – 12:30pm	Dealing with Theft, Money and Fidelity Insurance – Theft, Money and Fidelity insurance fundamentals	English
26 July (Tue)	9:30am – 12:30pm	Dealing with Theft, Money and Fidelity Insurance – Delivering on the promise, claims	English
11 Aug (Thu)	3:00pm – 6:00pm	Advanced Reinsurance – Part I	English
12 Aug (Fri)	3:00pm – 6:00pm	Advanced Reinsurance – Part II	English
16 Aug (Tue)	3:00pm – 6:00pm	Reinsurance Law and Contract Wordings – Part I	English
17 Aug (Wed)	3:00pm – 6:00pm	Reinsurance Law and Contract Wordings – Part II	English
To be advised	To be advised	Calculating the Cost of Retirement and How to Achieve Retirement through the Use of Insurance	Cantonese

For further details, please watch out for our CIB Circulars. ■

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

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