Asia Pacific Insurance - Hong Kong

Guide for Insurance Sales, Advisory and Distribution

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# What are the different types of insurance intermediaries in the market and do they need to hold any licenses and minimum qualification to conduct business?

Insurance intermediaries in Hong Kong can be classified into insurance agents and insurance brokers. Currently, the insurance intermediary regime is self-regulated. Insurance agents need to be registered with the Insurance Agents Registration Board, and insurance brokers need to be registered with the Hong Kong Confederation of Insurance Brokers or the Professional Insurance Brokers Association. A new statutory regime on intermediary is expected to be in force by 2019, under which the Insurance Authority will take over the regulation of insurance intermediaries from the three self-regulatory bodies.

# Is it mandatory for insurers to offer customers the option of purchasing insurance products directly from them without going through financial advisers or intermediaries?

Insurance products must be sold through licensed intermediaries.

# Do agreements between insurers and their agents need to take a certain form?

An insurer is required to appoint an insurance agent under a written agency agreement. Such agreement must meet the minimum requirements of the model agency agreement adopted by the Hong Kong Federation of Insurers.

# Can insurers pay volume-based commission to their appointed agents?

The commissions offered by an insurer should not provide any incentive or opportunity for the agent to engage in fraudulent or deceptive activities, and the remuneration structure should not create misaligned incentives for agents to engage in mis-selling,
aggressive selling, fraudulent acts or money-laundering activities. Hence, volume-based commissions should not be offered.

# Are insurers liable for any mis-selling of its agents or appointed distributors?

Yes. In principle, an insurance company will be liable for damages that an agent causes while acting on its behalf.

# Are there rules on the number of insurers that insurance brokers need to present to their customers?

Under the Minimum Requirements for Insurance Brokers, an insurance broker should not prejudice a customer's selection of insurers by unreasonably limiting the choices of insurers, and shall not be unreasonably dependent on any particular insurer in conducting their insurance broking business.

# Can insurance brokers receive commission from both insurers and their customers? If so, can they be volume-based commission?

Yes. Insurance brokers may receive commission from the insurer, provided that certain disclosure requirements are satisfied. Insurance brokers may also receive a service fee from the customer as they are engaged by the customer.

# Can agents or appointed distributors offer rebates on insurance premiums or other special concessions to the customers?

Insurance agents are prohibited from paying or offering to pay any rebate on commission not specified in the policy as an inducement to potential customers, unless specifically authorized by the insurer.

# Can insurers appoint offshore agents or accept business from offshore brokers?

While there is no specific prohibition on insurers appointing offshore agents or accepting business from offshore brokers, it is likely that the insurer will attract licensing or regulatory issues in the offshore jurisdiction. Therefore, insurers should consider the laws of the offshore jurisdiction before accepting business from offshore brokers or appointing offshore agents.

# Are there specific requirements on selling products through call centers, telemarketing or other distribution channels?

If an insurer wishes to sell products through call centers, telemarketing or other distribution channels, the call center staff will need to be licensed. Particular attention will need to be paid to the requirements under the Personal Data (Privacy) Ordinance.

# Are there specific requirements on selling products through online channels?

When selling products through online channels, an insurer should comply with the Guideline on the Use of the Internet for Insurance Activities, which requires, inter alia, that insurers have appropriate security policies in place, that the customer's personal information is protected, and that customers are provided with all the necessary information regarding the insurer and the insurance policy.

# Can insurers share client information with insurance agents and brokers and vice versa? What data privacy or confidentiality laws apply?

Insurers, agents and brokers owe a general common law duty to their clients and third parties to ensure that confidential client information is not subject to unauthorized disclosure. In addition, the handling of personal data is subject to the Personal Data (Privacy) Ordinance. Insurers, agents and brokers must notify clients of the purpose for which their personal data is collected and obtain consent from clients to use and disclose their personal data.

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