

**IFPHK's Response to the Insurance Authority's
Consultation Paper on Draft Insurance (Maximum
Number of Authorized Insurers) Rules**

December 2018

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IFPHK's Profile





Background

The Institute of Financial Planners of Hong Kong ("IFPHK") was established in June 2000 as a non-profit organization for the fast-growing financial industry. It aims to be recognized in the region as the premier professional body representing those financial planners that uphold the highest standards for the benefit of the public.

The IFPHK is the sole licensing body in Hong Kong authorized by Financial Planning Standards Board Limited ("FPSB") to grant the much-coveted and internationally-recognized CFP^{CM} certification and AFPTM certification to qualified financial planning professionals in Hong Kong and Macau.

It represents more than 6,800 financial planning practitioners in Hong Kong from such diverse professional backgrounds as banking, insurance, independent financial advisory, stockbroking, accounting, and legal services.

Currently there are more than 147,000 CFP certificants in 24 countries/regions; the majority of these professionals are in the U.S., Canada, China, Australia and Japan, with more than 4,700 CFP certificants in Hong Kong.

CFP^{CM}, CERTIFIED FINANCIAL PLANNER^{CM},  CFP^{CM},  CERTIFIED FINANCIAL PLANNERTM, AFPTM, ASSOCIATE FINANCIAL PLANNERTM,  AFP[®] and  ASSOCIATE FINANCIAL PLANNER[®] are certification marks and/or trademarks owned outside the U.S. by Financial Planning Standards Board Limited. The IFPHK is the marks licensing authority for the CFP marks and AFP marks in Hong Kong and Macau, through agreement with FPSB.

IFPHK's interest in this consultation

The Institute of Financial Planners of Hong Kong ("IFPHK") was established in June 2000 as a non-profit organization for the fast-growing financial industry. It aims to be recognized in the region as a professional body representing those financial planners that uphold the highest standards for the benefit of the public. The IFPHK is the sole licensing body in Hong Kong authorized by Financial Planning Standards Board Limited to grant the much-coveted and

internationally-recognized CFP^{CM} Certification and AFPTM Certification to qualified financial planning professionals in Hong Kong and Macau. In view of the growing demand for knowledge in retirement planning products, the IFPHK, in 2016, pioneered in offering a retirement-centric qualification – the Qualified Retirement Advisor (“QRA”) – focusing on products and practical skills.

It is the IFPHK’s mission to promote the importance of financial planning. Financial planning refers to the process of setting, planning, achieving and reviewing life goals through the proper management of finances. Insurance is considered the cornerstone of financial planning. The effective and proper use of insurance products helps spread risk, which can minimize the impact of risk on families should events take a downturn. Insurance is therefore an important part of the IFPHK’s financial planning education and certification programme. Having knowledgeable insurance practitioners, proper consumer understanding of what insurance policies do, effective products, and financially sound underwriters is essential for those who seek financial planning.

In Hong Kong, financial planners work in different segments within the financial services industry. Financial planners can be insurance agents working in insurance companies, insurance brokers working in insurance brokerages, or Independent Financial Advisors (“IFAs”). At present, about 41% of the IFPHK’s members work in the insurance industry and 9% work as IFAs.

As the leading professional institute representing the interests of the financial planning industry, the IFPHK has a duty to respond to any consultation paper that may impact its members and their clients. The IFPHK has previously provided feedback on the Consultation Papers “[Proposed Establishment of an Independent Insurance Authority](#)” and “[Financial Services and the Treasury Bureau Consultation Paper on Key Legislative Proposals on Establishment of an Independent Insurance Authority \(“IIA”\)](#)”. The IFPHK always strongly supports the establishment of an Independent Insurance Authority, which we would consider to be the most important breakthrough of Hong Kong’s financial industry. We have submitted our feedbacks to the Consultation Paper on the draft guidelines on both the fit and proper criteria for licensed insurance intermediaries, and their continuing professional development. We have provided our comments on the maximum number of authorized insurers’ requirements at the soft consultation stage, and have interest in this public consultation paper.

IFPHK's representation

The IFPHK was founded by 30 members (the "Founding Members") to raise the standards of financial planners and highlight the importance of sound financial planning.

The IFPHK currently has 35 Corporate Members, including banks, financial advisors, insurance companies and securities brokerages. With our Corporate Members providing a full spectrum of client services and products, the IFPHK is well positioned to understand the needs, concerns and aspirations of the financial planning community.

Executive Summary

On 31 October 2018, the Insurance Authority (IA) launched a two-month public consultation on the draft Insurance (Maximum Number of Authorized Insurers) Rules (the “Rules”) (the Consultation Paper), which stipulate a cap on the number of insurers by which a licensed individual insurance agent or insurance agency may be appointed under the new statutory licensing regime for insurance intermediaries. The regime is scheduled for implementation in mid-2019.

The draft Rules largely mirror the existing framework set out in the Code of Practice for the Administration of Insurance Agents issued by The Hong Kong Federation of Insurers. The IA proposes increasing the maximum number of insurers which a licensed individual insurance agent or insurance agency can represent from four to five, while keeping the existing sub-cap on the number of long term insurers (i.e. life insurers) at two. The IA further suggests that there should be no substantive change to the way the number of appointing insurers is counted. The submission deadline of the Consultation Paper is 31 December 2018.

In considering the various proposals of the Consultation Paper, the IFPHK’s comments are based upon the following principles and beliefs:

Enhancing consumer protection - As financial products get more complex and sophisticated, it is of utmost importance that investors/consumers are provided with proper and adequate protection under a sound and effective regulatory system.

Ensuring a level playing field across the financial services industry - The IFPHK believes that a failure to implement a consistent approach across the industry could result in significant negative consumer and industry consequences. The IFPHK is frequently urged by industry professionals to highlight the need for implementing a consistent approach across the industry to establish a ‘**level playing field**’ among all financial planners/advisors in the different distribution segments, i.e. banking, insurance and independent financial advisors.

Maintaining and enhancing the competitiveness and diversity of the insurance market -. As at 30 June 2018, there were 2,410 insurance agencies, 63,931 individual agents and 25,668 responsible officers/technical representatives. There were 774 authorized insurance brokers as at 30 June 2018. In addition, as at 30 June 2018, there were 8,964 persons registered as chief executives/technical representatives of these authorized brokers¹. The insurance market in Hong Kong is very competitive, and it is somewhat surprising that such a small place is able to accommodate over 70,000 practitioners. To preserve the fair competition and diversity of the market, the IIA should not only be progressive and adhere to international standards when formulating its supervisory principles and details, but should have an explicit responsibility to strike a balance between regulation and market growth, keeping in mind the difference in business nature and operation model of the various market participants.

Based on the above principles, the IFPHK thinks the existing arrangements work well. It is not necessary to relax the rule as more appointments of insurers make it more difficult for Responsible Officers to discharge their management supervision duties over appointed agents, and also add administrative costs without enhancing investor protection. Therefore, the overall cap shall remain at 4 and the sub cap of long term insurers shall be kept at 2.

To further enhance investor protection, we recommend imposing measures to mandate the agents or intermediaries to disclose to consumers a list of insurers they represent. Hence, the consumers can identify the right party when they have to lodge a complaint.

¹ Statistics from the Insurance Authority

The IA Consultation

On 31 October 2018, the Insurance Authority (IA) launched a two-month public consultation on the draft Insurance (Maximum Number of Authorized Insurers) Rules (the “Rules”) (the Consultation Paper), which stipulate a cap on the number of insurers by which a licensed individual insurance agent or insurance agency may be appointed under the new statutory licensing regime for insurance intermediaries. The regime is scheduled for implementation in mid-2019.

The draft Rules largely mirror the existing framework set out in the Code of Practice for the Administration of Insurance Agents issued by The Hong Kong Federation of Insurers. The IA proposes increasing the maximum number of insurers which a licensed individual insurance agent or insurance agency can represent from four to five, while keeping the existing sub-cap on the number of long term insurers (i.e. life insurers) at two. The IA further suggests that there should be no substantive change to the way the number of appointing insurers is counted. The submission deadline of the Consultation Paper is 31 December 2018.

The Consultation Paper contains 3 questions, which are set out as below:

1. Do you agree that the existing framework in relation to the maximum number of authorized insurers (including Lloyd’s) by which an individual insurance agent or an insurance agency can be appointed, should be retained?
2. Do you agree that the overall cap on the maximum number of authorized insurers (including Lloyd’s) by which an individual insurance agent or an insurance agency can be appointed, should be increased from four to five?
3. Do you agree that the sub-cap should remain two long term insurers?

IFPHK's Submission

The views expressed in this submission paper are not necessarily simply summaries of the views taken from the industry. They have undergone independent and critical analysis and consideration by the IFPHK as a professional body. As a result, not all the views collected by the IFPHK are recorded in this submission paper. Nor have all the views expressed in this paper been directly endorsed by the industry representatives or members consulted.

IFPHK's Principles

In considering the various proposals of the Consultation Paper, the IFPHK's comments are based upon the following principles and beliefs:

Enhancing consumer protection

As financial products get more complex and sophisticated, it is of utmost importance that investors/consumers are provided with proper and adequate protection under a sound and effective regulatory system. The IFPHK supports a regulatory system that would facilitate delivering better insurance products and services to the benefit of members of the public, as well as protecting them. As already stated, well informed and educated consumers are the core elements that form a healthy regulatory system. For a market to perform effectively and for consumers to be protected properly, a fundamental understanding of how these products work is essential. As such, there is a need to enhance financial literacy and the benefits of insurance protection in any financial plan.

Ensuring a level playing field across the financial services industry

It should be noted that the key assumption throughout this submission is that the proposed changes in legislation should be adopted consistently by all financial intermediaries servicing retail consumers operating in the IFA, banking and insurance sectors. The IFPHK believes that a failure to implement a consistent approach across the industry could result in significant negative consumer and industry consequences. The IFPHK is frequently urged by industry professionals to highlight the need for implementing a consistent approach across the industry to establish a '**level playing field**' among all financial planners/advisors in the different distribution segments, i.e. banking, insurance and independent financial advisors. We have already expressed our views in our responses to various consultation documents. The IFPHK strongly believes that such a

consistent approach would significantly reduce any regulatory arbitrage that could potentially undermine the good intention of protecting investors.

Maintaining and enhancing the competitiveness and diversity of the insurance market

Hong Kong ranked third in 2017 globally for insurance penetration, calculated by premiums in % of GDP². As Asia's insurance hub, Hong Kong has attracted many of the world's top insurance companies. As at 30 June 2018, there were 160 authorized insurers in Hong Kong, of which 93 were pure general insurers, 48 were pure long term insurers and the remaining 19 were composite insurers. As at 30 June 2018, there were 2,410 insurance agencies, 63,931 individual agents and 25,668 responsible officers/technical representatives. There were 774 authorized insurance brokers as at 30 June 2018. In addition, as at 30 June 2018, there were 8,964 persons registered as chief executives/technical representatives of these authorized brokers³. The insurance market in Hong Kong is very competitive, and it is somewhat surprising that such a small place is able to accommodate over 70,000 practitioners. The IFPHK has always stressed that a regulatory framework should deliver measurable benefits to the insurance industry in the medium to long term. It should also enable a healthy and sustainable business environment for the industry to thrive and develop. To preserve the fair competition and diversity of the market, the IIA should not only be progressive and adhere to international standards when formulating its supervisory principles and details, but should have an explicit responsibility to strike a balance between regulation and market growth, keeping in mind the difference in business nature and operation model of the various market participants.

Existing requirements and the proposals of the IA

The existing requirements are contained in the Code of Practice for the Administration of Insurance Agents issued by the Hong Kong Federation of Insurers (HKFI Code). Clauses 21-22 of the HKFI Code currently set out and elaborate on the existing restriction of the number of principals (namely insurers) that an agent may represent. **The existing requirement is that “an insurance agent shall not act as or be registered as an insurance agent for more than four “Principals”, of which no more than two may be long term insurers.**⁴

² Insurance premiums represented 17.94% of GDP in 2017, of which 14.58% were in the life business and 3.36% in the non-life business.

³ Statistics from the Insurance Authority

⁴ “Principal” is defined in the HKFI Code as: “an insurer to whom Part X of the Ordinance applies. However, unless otherwise stated, persons collectively represented as a syndicate of Lloyd's shall be treated as one Principal for the purposes of any insurance business relating to the syndicate”.

Clause 22 of the HKFI Code further elaborates on the restriction dealing with how to count a Principal that is a composite insurer, insurer Principals in the same group and Lloyd's. The general principle is that in all of these three cases whether one or two Principals are counted depends on the scope of the agent's appointment. If the agent is only appointed to represent the insurer(s) in *either* (i) General or Restricted Scope Travel Business; *or* (ii) Long Term Business (but not both), then only one Principal is counted. If the appointment is for *both* classes of business, then two Principals are counted.

The IA proposes that the overall cap should be increased modestly from four to five whereas the sub-cap should remain 2 long term insurers. In respect of the exemption currently granted under the HKFI Code for the selling of HKMC Annuity Plan, the IA proposes to continue to grant such exemption under the new regulatory regime. Due to the nature of the Rules as subsidiary legislation, it will be more difficult for the IA to update Rules than it has been for the HKFI Code to be updated as the need arose. The IA therefore considers it appropriate to exercise its powers under the new section 79 of the Ordinance for such exemption purpose.

The IA puts forward this proposal, which it hopes strikes a good balance, for the following reasons:

- a. whilst the current system which has been in place for 25 years has worked well, technology, the market and products have dramatically developed in ways that may justify a modest increase in the overall cap so as to allow agents to offer policyholders a wider range of products which are available in the market;
- b. there are fewer long term (life) insurers operating in Hong Kong than general insurers.
- c. there is a wider variety of general insurance products than long term insurance products and several general insurers authorized in Hong Kong offer only specialist general insurance products;
- d. there is an important legal distinction between insurance agents (appointed by insurers) and brokers (appointed by policyholders) and the cap was introduced in the 1990s in order to underpin this distinction which gives rise to different responsibilities and requirements (including the

requirement for brokers to comply with minimum capital requirements, procure minimum levels of professional indemnity insurance and have client accounts), conduct requirements and liabilities;

e. some jurisdictions allow insurance intermediaries to be appointed by a higher number of non-life insurers, for example in Macau where insurance agents are allowed to represent up to 5 non-life insurers;

f. relaxing the caps too much could reduce the effectiveness of the control which insurers are able to exercise over their appointed insurance agents and insurance agencies and make it more difficult for insurers to fulfill their responsibilities under the Ordinance (especially bearing in mind that they are responsible for the acts of their agents). For example continuing professional development monitoring could become more difficult; and

g. companies can chose to be licensed as licensed insurance broker companies (rather than as licensed insurance agencies) if they prefer to source and offer a wider product portfolio to policyholders and potential policyholders.

Questions raised in the Consultation Paper

Question 1

Do you agree that the existing framework in relation to the maximum number of authorized insurers (including Lloyd's) by which an individual insurance agent or an insurance agency can be appointed, should be retained?

IFPHK Response

The current system has been in place for 25 years that most practitioners have been used to the arrangement, and the maximum number rule did not jeopardize consumer protection. Thus, we agree to retain the arrangement.

Question 2

Do you agree that the overall cap on the maximum number of authorized insurers (including Lloyd's) by which an individual insurance agent or an insurance agency can be appointed, should be increased from four to five?

IFPHK Response

IFPHK understand there are mixed views on the Consultation Paper, some industry practitioners think the current restrictions should be relaxed. In our soft consultation submission, IFPHK considers there shall be more restrictions from an investor protection perspective as more appointments of insurers may make it more difficult for Responsible Officers to discharge their management supervision duties over appointed agents. We even suggest to IA in the soft consultation that the maximum number of appointed insurers shall be less than current level and a licensed individual insurance agent or a licensed insurance agency shall only allow to be appointed by **ONE** insurer for long term business.

Thus, the IFPHK thinks **the maximum number of authorized insures shall remain unchanged** to avoid any disruptions to existing contractual relationships. Apart from making the market more complicated and difficult to manage, any increases in representations add administrative costs to insurers which may eventually transfer the cost to consumers.

To further enhance investor protection, we recommend imposing measures to mandate the agents or intermediaries to disclose to consumers a list of insurers they represent. Hence, the consumers can identify the right party when they have to lodge a complaint.

Question 3

Do you agree that the sub-cap should remain two long term insurers?

IFPHK Response

Long term insurance business is a long term contract which investor may need to be served or advised over a long time span. As such, a reliable agent or insurance intermediary is highly important. Therefore, we suggest in the soft consultation submission to the IA, a licensed individual insurance agent or a licensed insurance agency shall only allow to be appointed by **ONE** insurer for long term business.

Understand any changes to the sub-cap would cause disruptions to the status quo which will not provide any benefits to the consumers. IFPHK agree to keep the number of authorized long term insurers at two. At this number, the Responsible Officer of the insurer can proper manage the appointed agents. Consumer is also able to easily identify the right party when he or she needs to lodge a complaint against an agent or a long term insurance product.