

“Whistle blowing” under the Appointed Actuaries System in Hong Kong

*Prayer Candles of an Appointed Actuary
of a Life Insurer in Hong Kong*

*“Lord, this candle that I have lit,
may it be LIGHT from you
to lighten my way
through difficulties and decisions.*

*May it be FIRE from you
To burn up my selfishness, my pride,
And all that is impure in me.*

*May it be FLAME from you
To warm my heart
And teach me to love.*

*Lord, I cannot stay long in your house.
This candle is a little bit of myself that I offer to you.
Help me to continue my prayer in all that I do this day.”*

Source: St. John’s Cathedral in Hong Kong

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Introduction

1. Life does not mean to be easy to anyone. This is so true for appointed actuaries under the appointed actuaries system in Hong Kong. On the one hand, an appointed actuary needs to be loyal to his pay master (i.e. the Board of Management of the life insurer), he also carry a heavy duties to the profession, the insuring public, the government and to his family. It is always difficult to get your priority right. One such heavy duties is to “whistle blow”. This article aims to examine the function “whistle blow” of the Appointed Actuaries under the Appointed Actuaries System in Hong Kong.

2. An examination of the “Appointed Actuaries System in Hong Kong” is timely because of the developments in overseas such as the United Kingdom. In the United Kingdom, the role of the appointed actuaries have been subject to critical review and challenges, following the problems caused by the forced running off of an insurer - Equitable Life. By closely examining the “whistle blow” function in the situation of Hong Kong, one can hope that we can develop more understanding of the role of the Appointed Actuaries System in Hong Kong and what, if any, improvement should be made.

3. Before getting into the details of this paper, the readers should know that this is just one personal view of one actuary as a member of the Actuarial Society of Hong Kong (“ASHK”). This view does not

reflect the intention of any organization, including that of the ASHK or the actuary's employer. This article has been peer-reviewed by Mr. Kevin Lee, but naturally all views and errors are that of the author.

4. "Actuaries do it with assurance". In this article, the subject matter is life assurance business and, hopefully, we do it right as a group without recourse to our Professional Liability Insurance.

Requirement of PS1

5. ASHK issued the Professional Standard 1 ("PS1") for its fellow members in 1993 and subsequently in 2000 PS1 becomes the legal professional standard prescribed under the insurance laws in Hong Kong i.e. the Insurance Companies Ordinance. Therefore, breaching the PS1 is not only breaching one's duties to the profession, but also breaking the laws with the resulting consequences. The consequences are serious and any actuary could find out for himself.
6. Paragraph 3.1 and 3.2 are relevant in terms of "whistle blowing" under the PS1. For ease of the readers, they are repeated bellows:

#3.1 The profession's rules of conduct make it clear that every actuary acting in his professional capacity, whether remunerated by salary or fee, has a duty to his profession and his responsibility to his principal must be consistent with this. The Hong Kong Appointed Actuary is, however, in a special

position in that :

- (a) he is appointed and remunerated by the company, and at the same time
- (b) he has responsibilities and obligations by reason of his statutory duties under the Insurance Companies Ordinance.

#3.2 It is seldom that these two aspects of his appointment conflict. If they do, however, it is the duty of the Hong Kong Appointed Actuary to advise the company as soon as he is of the view that :

- (a) a course of action is being, or is proposed to be, followed by the company, or
- (b) a situation has arisen, perhaps outside the control of the company,

which creates a material risk that the long-term fund may be insufficient to cover its liabilities or the company may fail to meet its obligations under the Ordinance in relation to its long-term business. It is also the Hong Kong Appointed Actuary's duty :

- (i) if the company persists in following such a course of action under (a),
or
- (ii) if the company fails to remedy the situation in (b) and does not report this fact to the Insurance Authority,

to advise the Insurance Authority after so informing the company.

Requirement under the Hong Kong Insurance Laws

7. In terms of compliance aspects of the appointed actuary under the Insurance Companies Ordinance, the appointed actuary should pay particular attention to the following sections :
 - (a) Section 15 regarding the appointment of actuary;
 - (b) Section 15B(2) regarding the notification requirement in respect of appointment
 - i. If he resigns
 - ii. If he decides not to seek reappointment
 - iii. If he decides to add qualification to his certificate accompanying the valuation report
 - (c) Section 15C regarding standards to be compiled with by an actuary
 - (d) Sections 18, 24 and 32 regarding report on actuarial investigation
 - (e) Section 53D regarding communication with the Insurance Authority –it is important to know that the Ordinance protects an actuary from liability for breach of confidentiality
 - (f) Section 53E requires the actuary to send report directly to the IA in

respect of :

- i. Events adversely affect the financial condition of the insurer;
- ii. Insufficient fund to meet liabilities attributable to the fund;
- iii. Any other irregularities or non-compliance.

Concern of the Appointed Actuaries

8. Things are always easier said than done. Actuaries are just ordinary human being and, in normal circumstance, will always think of this self-interest in term of “whistle blowing”. It is a big step forward for him to put his bigger self (i.e. the society) before his inner self (i.e. his job security, his career prospect etc). Under this circumstance, how can one find his right balance among his interest and the interest of his employer, his profession, the insuring public and the Government.
9. Anyone who understands the Agency Theory should understand that we should try to design the rules of game that the interests of the agent (i.e. the appointed actuary) is consistent with that of his principals (i.e. the employer, the insuring public, the profession and the government). The difficulty is that the immediate interests of some of his principals may not be consistent, although their long term goals might be the same. This is particularly so if the management is only “fit and proper” in appearance but in fact.

10. This is what a way to earn a living i.e. to “whistle blow” or not to “whistle blow” – this is a decision. Sometimes this is a decision which decides where your loyalty lies i.e. the material world or your dignity as a professional.

Role of the Appointed Actuaries

11. Life insurance industry is an important financial services industry in Hong Kong and the stake is getting bigger and bigger. The appointed actuaries serve not only the life insurers in Hong Kong and collectively they have a major role to play in the Hong Kong financial sectors. In actual fact, the role of appointed actuaries is important not only to Hong Kong but also to the Asian region. Hong Kong is the regional center of the actuarial services for quite a number of life insurers and the Actuarial Society of Hong Kong has a duty to uphold its professionalism.
12. In Hong Kong, we have 64 life insurers authorized to carry on long term business and the appointed actuaries are to ensure that these insurers are in good financial health. The issue is whether we need another actuary to audit the work of another actuary, whether we need another actuary to safeguard the reasonable expectation of policyholders like that proposed in the United Kingdom.
13. Given the important role of the appointed actuaries in Hong Kong,

what modifications, if any, could be suggest to help the actuaries to do their jobs right ? The US's ex-President Mr. Ronald Reagan once said, "We trust, but we verify." – is this the way to go ?

Possible conflict of interest

14. Actuaries wear different hats all the time – sometimes we wear many hats at one time. In what way we could avoid the possible conflict of interests ? In this regards, the Insurance Authority issued in 2002 a Guidance Note on the Corporate Governance of Authorized Insurers ("GN10"). Paragraph 8 (c) of GN10 states that "To enable an Appointed Actuary to fulfil his obligations independently and effectively, he shall preferably not be the Chief Executive as well. Where a person holds these two positions simultaneously, sufficient safeguards must be built in the internal control system of the authorized insurer concerned."
15. Apart from the Insurance Authority's requirements, the appointed actuaries could always identify many other possible conflicts of interest. It is always a difficult decision to find the right balance. However, it is always good to disclose your conflict to the relevant parties rather than hiding the conflict within one's inner self. It is not good for our soul and mind otherwise.
16. One such source of professional rescue is the Council Members of the

ASHK and the President of ASHK. Of course, if the situation gets really serious, one should always call the Police. After all, the Policeman knows how to protect people from the bad elements.

What's next ?

17. May we live in an interesting time in Hong Kong. The writing of this article is in author's memory of the late Ms. Catherine Prime who was the President of the International Actuarial Association and she was also the author's first boss and good mentor in Australia. She lived her time well and was a good adviser to quite a number of actuaries at difficulties, including the author.

18. "Whistle Blow" is certainly a difficult decision to make for any appointed actuary under the appointed actuaries system in Hong Kong. In this regard, the author hopes that this article helps more actuaries and actuaries to be to know their position better under the current environment.