STUDY GUIDE

ASHK Examination/Certificate in Hong Kong Insurance Markets and Regulations

February 2021 Edition

CORE

- *Roles and responsibilities of main regulators supervising the financial services industry*
- *Roles and responsibilities of main industry bodies in the financial services industry*
- *Regulations, professional standards, guidelines and industry standard practice*
- *Risk management responsibilities for actuaries*
- *Reinsurance and captives*
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ACTUARIAL SOCIETY of HONG KONG
香港精算學會

3.1 Core

As a major international financial centre, it is important that Hong Kong operates under an effective and transparent regulatory framework. This is to ensure that the interests of local and international investors would be safeguarded.

The Core section of the study guides introduces candidates to Hong Kong's regulatory framework and other areas of the financial services industry that are relevant to actuaries practising in Hong Kong. This study guide intends to assist candidates in preparing for the Core Examination by outlining the knowledge concerning the regulatory framework and market environment of the financial services in Hong Kong. For more details of each topic covered, candidates may refer to the reference readings listed at the syllabus.

Specific regulations and tax considerations relevant to each area of practice would be discussed in more details in the practice-specific sections of the study guides.

3.1.1 Roles and responsibilities of main regulators supervising the financial services industry

The Hong Kong financial services industry comprises a network of financial institutions which offer a wide range of financial services and products to customers and investors local and abroad.

Depending on the nature of the services and products, different regulatory authorities are responsible for their regulation and monitoring. In addition, these regulatory authorities are responsible for improving the financial literacy of the public through financial education and encouraging the development of Hong Kong's financial services industry.

It is important that an actuary becomes familiar with these regulators. Regulatory agencies which are most relevant to an actuary's day-to-day work are introduced below:

Insurance Authority (IA)

Prior to 26 June 2017, the Office of the Commissioner of Insurance (OCI) was the regulator responsible for protecting the interests of policyholders and promoting the general stability of the insurance industry. The OCI's duties included the review of licence application for new insurers, insurance market supervision and insurance statistics publication.

To enhance the insurance regulatory system, the independent Insurance Authority (IA), which is a body corporate, was established on 7 December 2015 under the Insurance Companies (Amendment) Ordinance 2015 with the aim to:
(1) modernise the insurance industry regulatory infrastructure to facilitate the stable development of the industry;
(2) provide better protection for policy holders; and

(3) comply with the requirement of the International Association of Insurance Supervisors (IAIS) that insurance regulators should be financially and operationally independent of the government and industry.

IA formally took over the regulatory functions of OCI on 26 June 2017.

Under the new regulatory regime, there would be an expanded scope of regulatory oversight over insurance companies. In addition to the OCI's responsibilities, the IA would also take over the regulation of insurance intermediaries from the three existing self-regulatory organisations (SROs) (described further in a later section), putting in place a more holistic and effective insurance regulatory system. The Government would continue to collaborate with the IA to ensure a smooth transition to the new regime.

The Chief Executive may give directions generally or in a particular case with respect to the exercise by the IA of any of its functions under Insurance Ordinance (Cap. 41) (IO) , and the IA shall comply with any such direction (section 4 (Authority) of the IO).

Composition, functions and powers of IA

The Chief Executive appoints the following members of the IA per section 4AA (Composition of Authority):
(1) A chairperson who is a non-executive director of the Insurance Authority;
(2) A chief executive officer, who is an executive director of the Authority; and
(3) Not less than 6 other executive or non-executive directors of the Authority.

The appointment of non-executive directors shall consider the knowledge of and experience in the insurance industry (which at least 2 should possess), knowledge in actuarial science, accountancy, law or consumer affairs, or because of their professional or occupational experience.

The principal function of the IA shall be to regulate and supervise the insurance industry for the promotion of the general stability of the insurance industry and for the protection of existing and potential policy holders. The IO stipulates that the IA shall:

(1) be responsible for supervising an insurer's and an insurance intermediary's compliance with the provisions of the IO;
(2) consider and propose reforms of the law relating to insurance business;
(3) promote and encourage proper standards of conduct and sound and prudent business practices amongst insurers;
(4) promote and encourage proper standards of conduct of insurance intermediaries and, where necessary, review and revise the regulatory system for the same;
(5) promote and develop self-regulation by market and professional bodies of the insurance industry;
(6) promote the understanding by policy holders and potential policy holders of insurance products and the insurance industry;

(7) formulate effective regulatory strategies and facilitate the sustainable market development of the insurance industry, and promote the competitiveness of the insurance industry in the global insurance market;
(8) conduct studies into matters affecting the insurance industry;
(9) assist the Financial Secretary in maintaining the financial stability of Hong Kong by taking appropriate measures in relation to the insurance industry;
(10) co-operate with and assist financial services supervisory authorities of Hong Kong or of any place outside Hong Kong, whenever appropriate, to the extent permitted by the IO; and
(11) perform functions imposed or conferred on the IA by this or any other Ordinance.

The IO (section 4B (Powers of Authority)) confers power on IA to take necessary action in order to operate and perform functions under the IO or any other Ordinance.

With respect to the sales of Investment-Linked Assurance Scheme (ILAS), which is a life insurance policy with investment elements that provides both insurance protection and investment options, Insurance companies issuing these policies are authorised and regulated by the IA. According to Guideline 15 issued by IA, insurance companies should comply with the comprehensive requirements for underwriting ILAS business in all aspects, ranging from product design, clarity of policy documents/publications, remuneration structure and disclosure, sales process to post-sale controls.

Supervisory functions - regulatory requirements on insurers

IA regulates the entities that carry on insurance business in or from Hong Kong through its licensing and supervision functions. Authorised insurers are required to satisfy:

(1) Authorisation requirements
    a. Satisfy the formation of company under Companies Ordinance
    b. Follow through the authorisation requirements and procedures set out in Guideline 1 - Authorisation Guideline (GL1) and Guideline 5 - Guideline on Application for Authorisation to Carry on Insurance Business in or from Hong Kong (GL5)
    c. IA shall decide whether authorisation to carry on insurance business in or from Hong Kong will be granted
(2) Adequate capital requirement which stipulates minimum amount of paid-up capital.
(3) Adequate solvency which requires an insurer shall maintain an excess of assets over liabilities of not less than a required solvency margin. There are separate provisions for a general business insurer and a long term business insurer.
(4) Fit and proper management and shareholders
    a. IA shall consider fit and proper test in approval of director or controller of an insurer as the IO requires.
    b. Guideline 4 – Guideline on “Fit and Proper” Criteria under the Insurance Ordinance (Cap.41) (GL4) sets out the factors that the IA will take into account in administering the regulatory requirement in approval of director or controller of an insurer.
(5) Prudent valuation basis for assets and liabilities
    a. Insurers shall refer to relevant rules under Insurance ordinance for the valuation of assets and liabilities as applicable to the insurance businesses. Specifically, the

Insurance (General Business) (Valuation) Rules (Valuation Rules) made under section 129(1) of the IO provide a standard and prudent basis for the valuation of the assets and liabilities of an insurer carrying on general business, while the Insurance (Determination of Long-Term Liabilities) Rules made under section 129(1) of the IO set out the bases for the determination of the amount of long-term business liabilities.

(6) Reporting requirements
   a. Section 17 of the IO provides that an insurer is required to submit annually to the IA its financial statements prepared in accordance with the requirements of Schedule 3 to the IO.
   b. An insurer carrying on general business is additionally required to submit annually to the IA an audited General Business Return and audited Statement of Assets and Liabilities pertaining to its Hong Kong general business. The latter requirement does not apply to a professional reinsurer or a captive insurer.
   c. An insurer carrying on long term business is required to submit annually an actuarial investigation report and the Hong Kong Long Term Business Return to the IA.

(7) Corporate governance
   a. Corporate governance refers to systems through which an authorised insurer is managed and controlled.
   b. The IA has issued a Guideline 10 – Guideline on Corporate Governance of Authorised Insurers (GL10) which sets out the minimum standard of corporate governance that is expected of authorised insurers.
   c. The IA requires insurers to establish and implement a corporate governance framework which provides for sound and prudent management and oversight of its business and adequately recognises and protects the interests of policy holders.
   d. Also, the IA requires insurers to have, as part of their overall corporate governance framework, effective systems of risk management and internal controls, including effective functions for risk management, compliance, actuarial matters and internal audit.

<u>Supervisory functions - regulations and industry practices associated with the sale of insurance policies</u>

IA has issued Guidelines 15 (GL15), 16 (GL16) which set out comprehensive requirements for authorised insurers underwriting long term business in all aspects from product development to post-sale controls. In tandem, the insurance industry has also drawn up a package of measures for purposes of enhancing policyholder protection. Requirements and measures include:

(1) Adopting the "fair treatment of customers" principle in product design
    Insurers should develop and market products with due regard to the interests of customers.
(2) Provision of adequate and clear information to customers
    Insurers should include information on the key product features and risks in all the product documents, including the product brochure, Key Facts Statement and Important Facts Statement / Applicant’s Declaration. In particular, insurance intermediaries selling

ILAS products are required to distribute the pamphlet "Questions you need to ask before taking out an ILAS product" to potential policy holders at the point of sale.

(3) Suitable insurance products to customers
Insurers should endeavour to reduce the risk of sales that do not meet the needs of customers. Clients' needs must first be properly assessed through the use of Financial Needs Analysis form.

(4) Appropriate remuneration structure and avoidance of conflict of interest
Insurers have the duty to ensure that the remuneration structure for their intermediaries do not create misaligned incentives for the intermediaries. Also, the industry has adopted the formulation stipulated by the IA in calculating and disclosing the remuneration for each ILAS product and distribution channel.

(5) Post-sale control
To reaffirm client's understanding of the ILAS policy that they have procured, GL15 requires insurers to make audio-recorded post-sale confirmation calls to all ILAS clients. As required under GL16, the same control also applies to all vulnerable customers procuring life insurance products (except term insurance).

(6) Illustration standards for long term insurance policies
GL15 and GL16 cover the illustration standards to enhance the transparency of life insurance policies. IA also issued guide to prescribe a clear and uniform methodology to calculate and disclose fulfillment ratios of the non-guaranteed dividends for participating products, and historical crediting interest rates for universal life products.

The standards provide prospective policy holders with a summary of insurance benefits, investment returns and surrender values. This illustration will not only reduce potential market malpractice, but also enable prospective policy holders to make informed decisions.

Following the implementation of GL15, an additional illustration rate of zero investment return (0%) was also required from January 2015 on top of the illustration rates of 3%, 6% and 9% as set in 2014.

(7) Important Facts Statement for Mainland policy holders
To enable Mainland Chinese visitors (MCV) to make an informed decision, the IA sees the need to remind them the factors and risks to be considered when taking out policies in Hong Kong. All insurers are required to include an "Important Facts Statement for Mainland policy holders" to new applications of individual long term insurance policies made by MCV with effect from 1 September 2016.

Further, IA has issued Guidelines 22 to 31 (GL22 – GL31) to cover formalized requirements in more details in areas of insurance intermediaries (Pecuniary penalty, Fit and Proper criteria, Continuing Professional Development) and sales process and practices (Offering of gifts, sales of ILAS products, policy replacement, benefit illustration, cooling off period, requirement on financial needs analysis in sales process and specific guideline on medical products)

(8) IA's power in imposing Pecuniary Penalty in Respect of Regulated Persons under the Insurance Ordinance (Cap. 41) (GL22)
This GL22 sets out the approach, principle and considerations by HKIA in imposing pecuniary penalty on insurance intermediary, agency and broker.

(9) "Fit and Proper" Criteria for Licensed Insurance Intermediaries under the Insurance Ordinance (Cap. 41) (GL23)
This GL sets out the fit and proper criteria in applying/renewal of license for insurance intermediary, covering criteria for individual (education, reputation, character, reliability, honesty and integrity) and business entity (competency, financial status or solvency, reputation, character, reliability, honesty and integrity)

(10) Continuing Professional Development (CPD) for Licensed Insurance Intermediaries (GL24)
This guideline sets out CPD requirement for insurance intermediary

(11) Offering of Gifts (GL25)
This Guideline provides guidance on certain restrictions on the use of gifts and rebates which authorized insurers and licensed insurance intermediaries should follow when marketing, promoting or distributing insurance products classed as long term business.

(12) Sale of Investment-Linked Assurance Scheme ("ILAS") Products (GL26)
The key focus of this GL is to ensure that buyers of ILAS products are fully apprised of the nature key features and risks of such products, as well as the rights and obligations associated with such products.
Fair treatment of customers is vital. To achieve this objective, this GL requires sales process of ILAS products having adequate suitability assessment (Financial Needs Analysis, Risk Profile Questionnaire, disclosure of Important Facts Statement, Post-Sale controls etc.) in place. This GL also outlines the responsibility of authorized insurers and insurance intermediaries throughout the sales process.

(13) Long Term Insurance Policy Replacement (GL27)
Guideline 27 sets out the requirements for Authorized insurers and licensed insurance intermediaries in ensuring that the policy holder is fully informed of the consequences of policy replacement of life insurance contract, by taking reasonable steps as listed in the GL.
This GL mandates that 'Important Facts Statement – Policy Replacement' be signed by customers to ensure that the customers are fully aware of the disadvantage that may arise from policy replacement, alongside with other requirements for insurers and insurance intermediaries in assessing policyholder's intention in policy replacement and advise whether the purchase is in the customer's best interest.
Internal control and record keeping should be in place to comply with this GL.

(14) Benefit Illustrations for Long Term Insurance Policies (GL28)
This GL sets out the standard requirements for benefit illustration documents to be provided to potential policy holders or existing policy holders to allow them to have adequate and clear information on the benefits of a life insurance policy. Specific guidelines are provided for 'inforce re-projection illustrations' and 'supplementary illustration'.

(15) Cooling-off Period (GL29)
This GL sets out the requirements of inclusion of cooling-off period, formalization of cooling-off period provision, the required communications to customers, and obligations of insurers and intermediaries.

(16) Financial Needs Analysis (GL30)
This GL sets out the requirements for having Financial Needs Analysis (FNA) which is a process during which an authorized insurer or a licensed insurance intermediary collects relevant and sufficient information from a customer so that the authorized insurer or licensed insurance intermediary can properly assess the circumstances of the customer

(including needs, financial situation, etc.) before making any recommendation in respect of certain types of life insurance policies to the customer.

(17) Medical Insurance Business (GL31)
This GL provides guidance on the standards and practices which are expected to be met in order to ensure fair treatment of customers across all aspects of medical insurance business. Aspects such as product design, sales process, claims handling, after-sale process and complaint handling are covered. The importance in safeguarding the policyholder’s personal data is also highlighted.

Hong Kong Monetary Authority (HKMA)

The Hong Kong Monetary Authority (HKMA) is responsible for maintaining the stability of the overall economy, with duties including the maintenance of currency stability, the promotion of the safety and stability of the banking system through banking supervision, and the promotion of the efficiency, integrity and development of the financial system.

With respect to the sales of ILAS policies, apart from the requirement under the IO, banks and their staff are also regulated and supervised by the HKMA.

Mandatory Provident Fund Authority (MPFA)

The Monetary Provident Fund Schemes Authority (MPFA) is a statutory body set up to oversee the regulation and supervision of privately managed mandatory provident fund (MPF) schemes and occupational retirement (ORSO) schemes. The MPFA is responsible for the monitoring of legislative compliance, regulation of sales, marketing activities and advisory services, approval of qualified parties as trustees of registered schemes, MPF scheme registration, and setting rules and guidelines for the payment of mandatory contributions.

Securities & Futures Commission (SFC)

The Securities and Futures Commission of Hong Kong (SFC) regulates Hong Kong’s securities and futures markets. It maintains and promotes the fairness, efficiency, competitiveness, transparency and orderliness of the securities and futures industry, and offers protection and education to the public investing in financial products.

The SFC oversees financial intermediaries in investment-related fields (e.g. brokers, fund managers), investment products, listed companies, Hong Kong Exchange and Clearing Limited (HKEx), automated trading service (ATS) providers, approved share registrars, Investor Compensation Company Limited (ICC) and other market participants.

With respect to the sales of ILAS, which is a life insurance policy with investment elements that provides both insurance protection and investment options, SFC also introduced the Guidance on Internal Product Approval Process applicable to providers of various products including ILAS. The guidance explains the requirements for a robust internal product approval process for product providers, covers the entire chain from inception of the product to post-sale, and reminds product providers their duty to consider investors' interests as part of the product-design process. In addition, ILAS products and their offering documents (including the Product Key Facts Statement), illustration documents and marketing materials must be authorised by the SFC before they can be offered to the public in Hong Kong.

Other useful links for this section are listed below for additional background information:

- Insurance Authority (IA) –
  - https://www.ia.org.hk/en/index.html
  - https://www.ia.org.hk/en/aboutus/role/history.html
  - https://www.ia.org.hk/en/aboutus/role/statutory_functionse.html
  - https://www.ia.org.hk/en/legislative_framework/overview/an_overview_of_the_regulatory_framework.html
  - https://www.ia.org.hk/en/supervision/reg_insurers_lloyd/regulatory_requirements.html
  - https://ia.org.hk/en/consumer/industry_practices_associated_with_the_sale_of_Insurance_policies.html
  - Regulatory approach specific for bancassurance
    https://www.ia.org.hk/en/supervision/int_dom_cooperation/files/text-ilens14.pdf
  - Ordinances, Regulations and Rules
    https://www.ia.org.hk/en/legislative_framework/overview/ordinance_regulations_and_rules.html
- The Chin Family – Regulatory approach specific for ILAS product - https://www.thechinfamily.hk/web/en/financial-products/insurance/product-types/ilas/regulation/regulatory-measures.html
- Hong Kong Monetary Authority (HKMA) - http://www.hkma.gov.hk/eng/index.shtml
- Monetary Provident Fund Schemes Authority (MPFA) - http://www.mpfa.org.hk/tch/main/index.jsp
- Security & Futures Commission of Hong Kong (SFC) - http://www.sfc.hk/web/EN/index.html

3.1.2 Roles and responsibilities of main industry bodies in the financial services industry

Actuarial Society Hong Kong (ASHK)

The Actuarial Society of Hong Kong (ASHK) is the actuarial professional body of Hong Kong and is a full member of the International Actuarial Association. While the ASHK does not currently have statutory powers, it is responsible for issuing the Code of Conduct, professional standards and actuarial guidance notes that actuaries practising in Hong Kong are expected to follow.

As the ASHK is a professional body, its members have an obligation to provide the best possible services to the public. Therefore, it is essential that the highest standards of conduct are maintained by all members. Actuaries are expected to demonstrate integrity in relationships with clients, other members of the profession and the public. The Council of the

ASHK has issued a Professional Conduct Code (PCC) to list out the principles which it expects all members to follow in spirit and letter. In the case that a member of the ASHK has allegedly acted against the PCC or performed an act of a nature that may bring discredit to the ASHK (e.g. fraud and criminal offence), the Council would take steps as it thinks fit. I deemed necessary, the Council would set in motion disciplinary procedures.

All non-retired Fellow and Associate members of the ASHK are subject to the Continuing Professional Development (CPD) requirement on a calendar year basis. Non-compliance of the CPD requirement may result in counselling and disciplinary actions.

To maintain a high level of professionalism among members, the ASHK issues By-Laws, professional standards (PS) and actuarial guidance notes (AGNs).

The ASHK has issued two PS for actuaries practising in different sectors of the industry. PS1 relates to the statutory duties of actuaries working in life insurance companies. In particular, it applies for actuaries appointed pursuant to Section 15 of the Insurance Ordinance of Hong Kong (appointed actuaries), as well as directors and external assessors of insurance companies. PS2 applies for actuaries in the Pension business, with a focus on the preparation of actuarial report and certificate following an actuarial review.

As for AGNs, the ASHK has published AGNs on life insurance policy illustrations, dynamic solvency testing, best estimate assumptions and other topics that actuaries would come across in their professional lives. They are guidelines which are generally written after consultation with the industry and represent good industry practice. The main difference between PS and AGN is that compliance with the latter is not mandatory provided there is appropriate justification.

Hong Kong Federation of Insurers (HKFI)
Hong Kong Confederation of Insurance Brokers (HKCIB) and
Professional Insurance Brokers Association (PIBA)

The HKFI, the HKCIB and the PIBA are the three SROs responsible for the regulation of insurance intermediaries in Hong Kong. Their regulatory power would be absorbed by the IA over a three-year transitional period from the end of 2015 (when the Provisional Insurance Authority [the IA's previous name] was established).
Pre-existing insurance intermediaries validly registered with the three SROs would be deemed as licensees upon the commencement of the new regime, until the earlier of the expiry of the three-year transitional period or a licence is granted by the IA. This is to ensure a smooth transition to the new regulatory regime. As the IA absorbs the regulatory powers of the SROs, the SROs are expected to continue to function as trade bodies responsible for representing the interests of their members.

As part of the self-regulatory initiatives taken by the industry, the HKFI has published The Code of Conduct for Insurers and the Code of Practice for the Administration of Insurance Agents. These Codes aim to promote good practice among insurers in the conduct of their insurance business and the administration of their insurance agents.

The Consumer Protection Declaration Form (CPDF) was introduced under the Code of Practice for Life Insurance Replacement issued by the HKFI as a self-regulatory measure to prevent twisting of life policies. It should be completed and signed to evidence that an insurance intermediary has clearly explained to a life policyholder the consequences and potential disadvantages of replacing an existing policy. A life policy applicant is also required to declare in the CPDF that he/she has received a copy of the IA's educational pamphlet "Life Insurance Policy Replacement – What you need to know".

The HKFI, in collaboration with the then OCI, issued the Guidance Note on Gifts for ILAS products in May 2011 and the Guidance Note on Gifts, Promotions and Incentives for Class A and Class C Products in January 2012 (updated in January 2014). Insurers are then restricted from offering any gift (other than a discount of fees or charges) when promoting insurance investment or saving products to policy holders or prospective policy holders.

Hong Kong Exchange and Clearing Limited (HKEx)

HKEx is a private entity operating a securities market and a derivatives market in Hong Kong. It is one of the largest financial market operators in the world. It also performs clearing house functions, such as post-trade management, position management and exercise and assignment.

In addition, HKEx acts as the front-line regulator of listed issuers (including listed companies) in Hong Kong. It strictly enforces its listing, trading and clearing house rules to maintain open, fair, transparent and efficient markets.

HKEx also provides services which mainly cover market data services, securities settlement and depository, trading of securities and derivatives providing clearing and settlement services for over-the-counter (OTC) derivative transactions. In terms of products offering, HKEx covers a wide range of securities and derivatives and the comprehensive product list can be referred to at
http://www.hkex.com.hk/news/news-release?sc_lang=en(Product%20session)#.

The HKMC Annuity Limited (HKMCA)

The HKMCA is a wholly-owned subsidiary of the Hong Kong Mortgage Corporation Limited (HKMC) which is wholly owned by the Hong Kong Special Administrative Region Government through the Exchange Fund. It is an authorised insurer under the Insurance Ordinance to carry on long term insurance business of class A (life and annuity) in or from Hong Kong. Its mission is to facilitate retirement financial planning through provision of annuity products for Hong Kong citizens and to promote the development of the local annuities market.

Regulator / Financial Service Body	**Scope**
IA (26 June 2017 onwards)	General insurance, long-term business and insurance intermediaries

OCI (up to 26 June 2017)	General insurance and long-term business
HKFI, HKCIB, PIBA (up to 2017-2018)	Insurance intermediaries
HKMA	Banks
MPFA	Mandatory provident fund schemes and occupational retirement schemes
SFC	Investment-related entities
ASHK	Actuaries practicing in Hong Kong
HKEx	Listed companies
HKMCA	Retirement financial planning and local annuities development

Other useful links for this section are listed below for additional background information:

- Hong Kong Confederation of Insurance Brokers (HKCIB) - http://www.hkcib.org/hkcib/index.jsp
- Professional Insurance Broker Association (PIBA) - http://www.piba.org.hk/
- Hong Kong Exchange and Clearing Limited (HKEx) - https://www.hkex.com.hk/news/news-release?sc_lang=en(Product%20session)
- HKMC Annuity Limited (HKMCA) - https://www.hkmca.hk/eng/index.html

3.1.3 Regulations, professional standards, guidelines and industry standard practice

3.1.3.1 Guidelines[1] and circulars

The IA has issued the following Guidelines (see https://www.ia.org.hk/en/legislative_framework/guidelines.html for the most up-to-date list):

- GL1 - Authorisation Guidelines
- GL2 - Guideline on Insurance (General Business) (Valuation) Rules
- GL3 - Guideline on Anti-Money Laundering and Counter-Terrorist Financing
- GL3A - Guideline on Exercising Power to Impose Pecuniary Penalty in respect of Anti-Money Laundering and Counter-Terrorist Financing
- GL4 - Guideline on "Fit and Proper" Criteria under the Insurance Ordinance (Cap.41)
- GL5 - Guideline on Application for Authorisation to Carry on Insurance Business in or from Hong Kong
- GL6 - Guideline on Reserving for Mortgage Guarantee Business
- GL7 - Guideline on the Reserve Provision for Class G of Long Term Business (revised in December 2006)
- GL8 - Guideline on the Use of Internet for Insurance Activities

[1] All Guidance Notes promulgated by the OCI have been renamed as Guidelines, and the abbreviation have been changed from “GN” to “GL”.

- GL9 - Guideline on Actuarial Review of Insurance Liabilities in respect of Employees' Compensation and Motor Insurance Business
- GL10 - Guideline on the Corporate Governance of Authorised Insurers
- GL11 - Guideline on Classification of Class C - Linked Long Term Business
- GL12 - Guideline on Reinsurance with Related Companies
- GL13 - Guideline on Asset Management by Authorised Insurers
- GL14 - Guideline on Outsourcing
- GL15 - Guideline on Underwriting Class C Business
- GL16 - Guideline on Underwriting Long Term Insurance Business (other than Class C Business)
- GL17 - Guideline on Reinsurance
- GL18 - Guideline on Exercising Power to Impose Pecuniary Penalty in respect of Authorised Insurers under the Insurance Ordinance (Cap. 41)
- GL19 - Guideline on Qualifying Deferred Annuity Policy
- GL20 - Guideline on Cybersecurity
- GL21 - Guideline on Enterprise Risk Management
- GL22 - Guideline on Exercising Power to Impose Pecuniary Penalty in Respect of Regulated Persons under the Insurance Ordinance (Cap. 41)
- GL23 - Guideline on "Fit and Proper" Criteria for Licensed Insurance Intermediaries under the Insurance Ordinance (Cap. 41)
- GL24 - Guideline on Continuing Professional Development for Licensed Insurance Intermediaries
- GL25 - Guideline on Offering of Gifts
- GL26 - Guideline on Sale of Investment-Linked Assurance Scheme ("ILAS") Products
- GL27 - Guideline on Long Term Insurance Policy Replacement
- GL28 - Guideline on Benefit Illustrations for Long Term Insurance Policies
- GL29 - Guideline on Cooling-off Period
- GL30 - Guideline on Financial Needs Analysis
- GL31 - Guideline on Medical Insurance Business

Insurers are expected to comply with the guidelines. Depends on the facts and circumstances, violation may subject the insurer to regulatory actions.

Other useful links for this section are listed below for additional background information:

- IA Circulars
  https://www.ia.org.hk/en/legislative_framework/circulars/circulars_on_regulatory_matters.html
- Committees set up by IA
  https://www.ia.org.hk/en/aboutus/governance/functional_committees.html (Page itself only)

3.1.3.2 Professional conduct and actuarial guidance notes

To maintain a high level of professionalism among members, the ASHK regulates actuarial practice of members by issuing By-Laws, professional standards and actuarial guidance notes.

The actuarial guidance notes currently applicable are:

- AGN 3: Additional Guidance for Appointed Actuaries (Revised on 23 October 2002)
  - Actuarial Guidance Note - Supplement to AGN 3 Additional Guidance for Appointed Actuaries (Effective 1 January 2013)
  - Actuarial Guidance Note - Second Supplement to AGN 3 - Additional Guidance for Appointed Actuaries - Additional Guidance for Determination of the Valuation Interest Rate (Effective 17 November 2014)
- AGN 4: Outstanding Claims in General Insurance Note on Professional Practice (Effective from 1 January 2017)
- AGN 5: Principles of Life Insurance Policy Illustrations (Effective from 17 June 2013)
- AGN 7: Dynamic Solvency Testing (Effective from 31 December 2016)
- AGN 9: Actuarial Guidance Note - Best Estimate Assumptions (Effective 1 April 2016)
  - Appendix A to AGN 9 - Participating and Universal Life Business Benefit Illustration Assumptions (Effective 1 April 2016)

The actuarial guidance notes are meant to be suggested standards of practices for actuaries practicing in Hong Kong. Actuaries are expected to review, understand and follow the guidance. If an actuary's practice is different from the AGNs, the actuary should document the rationale and quantify the impact of any differences.

The Professional Standards applicable are:

- PS1 (issued on 14 April 1993). This standard relates to the statutory duties of an actuary in relation to life insurance companies. In particular, it is for:
  - Actuaries appointed pursuant to Section 15 of the Insurance Ordinance of Hong Kong;
  - The actuary as a director or in any other position of authority in relation to an insurance company;
  - The actuary as an external advisor or assessor.
- PS2 (revised on and effective 23 December 2015). This standard applies to the preparation of actuarial certificates as required under Section 15(e), 31(2) and 32(2)(b) of the Ordinance, as stipulated in section 2 of the Occupational Retirement Schemes (Preparation of Actuarial Certificates) Rules (Cap. 426 sub leg. H) and in accordance with Section 2 of the Occupational Retirement Scheme (Periodic Certification of Registered Defined Benefit Schemes) Rules (Cap. 426 sub leg. I).

3.1.3.3 Regulations of intermediaries

Distribution channels for the Hong Kong insurance market are primarily tied agents, brokers, and bancassurance.

To be qualified to sell life insurance policies in Hong Kong, an insurance agent must be appointed by an insurer, registered with the Insurance Agents Registration Board (IARB) set up by the HKFI and in compliance with the requirements specified in the Code of Practice for the Administration of Insurance Agents issued by the HKFI.

A broker can directly register with the IA. Alternatively, the broker can apply to become a member of the HKCIB or PIBA. The chief executive and technical representatives of an insurance broker must be fit and proper. Additionally, they must satisfy the “Minimum Requirement” specified by IA with regards to "Qualifications and experience", "Capital and net assets", "Professional indemnity insurance", "Keeping of separate client accounts" and "Keeping proper books and accounts.”

For the insurance business sold through the bancassurance channel, the bank is considered as an agent. The bank and its sales representatives must be regulated by IARB under the HKFI.

All insurance intermediaries, their chief executives/responsible officers and technical representatives are required to pass the Insurance Intermediaries Qualifying Examination conducted by the Vocational Training Council as a condition for registration/authorisation unless otherwise exempted. They are also required to comply with the requirements of the Continuing Professional Development Programme.

An appointed insurance agent shall not represent more than four insurers, with no more than two of the represented companies being long term business insurers.

For sales of ILAS, the insurance intermediaries are required to take the qualifying examination Paper V. There are also additional requirements set out by the HKFI[2].

For the distribution of MPF, the MPFA administers the registration of MPF intermediaries and issues the Guidelines on MPF Intermediary Registration and Notification of Changes. The IA, as one of the frontline regulators (alongside the Monetary Authority and Securities and Futures Commission), is responsible for the inspection and investigation of registered MPF intermediaries whose core business is insurance.

3.1.3.4 Authorisation requirements and guidelines

Any company interested in carrying on insurance business in or from Hong Kong may apply to the IA for authorisation to do so under the IO.

Authorisation to carry on insurance business in or from Hong Kong will only be granted to those insurers who meet the authorisation requirements stipulated under sections 8(1) through 8(3) of the IO. These include meeting the capital and solvency requirements, fulfilling the “fit and proper” requirements of management and shareholders, as well as having adequate reinsurance arrangements.

The company must also meet certain other conditions as set out in the Authorisation Guidelines or GL1 issued by the IA, which seek to ensure that the applicant insurer is financially sound and competent to provide an adequate level of services to the insuring public. These conditions continue to apply to an insurer after its authorisation. The requirements set forth in Item 11 of the Guideline apply to all applicants, whether incorporated locally or overseas.

[2] http://www.hkfi.org.hk/pdf/en/download/e_CodePractice_2010.pdf and http://www.hkfi.org.hk/pdf/en/download/20150714_ILAS.pdf.

Other useful link for this section are listed below for additional background information:

- Insurance market statistics from IA - https://www.ia.org.hk/en/infocenter/statistics/market.html

3.1.3.5 Statutory reserved roles for actuaries

The following is a list of statutory reserved roles for actuaries in Hong Kong:

- Appointed actuary of an insurance company with long-term insurance business (for whom compliance with PS1 is compulsory)
- Providing an actuarial opinion on the transfer of liabilities of a long-term insurance business
- Preparation of actuarial report and actuarial certificate for ORSO schemes (the actuary who signs the actuarial certificate must comply with PS2)
- Preparation of annual actuarial report with respect to Employees' Compensation (EC) and motor insurance business in accordance to GL9

In addition to the above, the IO section 13AE(12) introduces the concept of "key persons in control functions". They are individuals responsible for control functions, namely in the Actuarial, Financial Control, Internal Audit, Compliance, Risk Management and Intermediary Management (and other functions the Financial Secretary specified by notice). Appointment of such key personnel is subject to the approval of the IA, as mandated by the IO. Hence, key roles in control functions are also considered as statutory roles.

It is important to note that one will need to satisfy the Fit and Proper criteria as required by and be approved by the IA for actuaries to officially take on statutory roles.

There is a need for actuaries to be aware of certain potential liabilities other than statutory requirements. Since Hong Kong is a Common Law jurisdiction (vis-à-vis Civil Law in other legal framework such as that in Mainland China), actuaries are subject to the case laws as they develop. As in the case of other professionals, actuaries should have a good understanding of important issues such as contractual obligations, duty of care and professional negligence.

3.1.4 Risk management responsibilities for actuaries

There are currently no official requirements set in statute or within ASHK professional standards or guidance notes with regards to risk management responsibilities for actuaries. Notwithstanding this, the importance of enterprise risk management is increasingly being emphasised by regulators around the world.

Many of the tasks performed by actuaries are intimately linked to the risks of our organisations. Besides financial risks that actuaries are generally very focused on, operational risks and reputational risks must not be underestimated as their long term financial impact could be very significant.

A few risk issues where actuaries in Hong Kong would often come across are included in this syllabus, namely:

- Consumers complaints or disputes
- Anti-money laundering (AML) and counter-terrorist financing (CTF)
- Data protection
- Outsourcing
- Anti-discrimination

Any complaints with the IA can be lodged following the guidelines at: https://www.ia.org.hk/en/aboutus/lodge_a_complaint.html.

3.1.4.1 Consumers complaints or disputes

In Hong Kong, the IA plays a monitoring role in insurance complaints and ensures that the complaints are properly handled by the insurers or other self-regulatory bodies within the industry. The IA itself, however, does not have the statutory power to intervene in such commercial disputes.

Actuaries should be aware of historic complaints and be vigilant of reputation risks when performing product design and pricing. Besides playing a risk management role with regards to possible future disputes throughout the product development process, quite often actuaries are invited to participate in the resolution of complaints by customers, for instance by explaining certain complicated features of a product that have given rise to complaints, or by estimating fair financial compensation where the product provider is deemed to have misled a customer.

Insurance policyholders in HK may lodge their complaints to various self-regulatory bodies. The Insurance Complaints Bureau (ICB) has been set up and financed by the industry to handle complaints from all types of personal insurance policies. For disputes related to small claims (defined as claims involving no more than HK$50,000), the policyholder may also consider seeking help with any unresolved complaint at the Small Claims Tribunal (SCT).

The self-regulatory system for insurance intermediaries, namely insurance agents and brokers, is supported by legislation which is contained in Part X of the IO. Under section 65 of the IO, a person is prohibited from holding himself out as an insurance agent or an insurance broker unless he is properly appointed or authorised. For complaints related to agent misconduct, the policyholder can lodge their complaints to the IARB of the HKFI. If the insurance intermediary involved is a broker, complaints can be made to the HKCIB or PIBA, depending on the affiliation of the intermediary.

Motor Insurers' Bureau (MIB) of Hong Kong would provide assistance to victims of traffic accidents if they have difficulty in claiming compensation due to lack of insurance, untraceable vehicle or insolvency of insurance company.

The Employees Compensation Insurer Insolvency Bureau (ECIIB) administers the Insolvency Fund Scheme to assume the responsibility for the liabilities of insurers engaging in employees' compensation.
Furthermore, the Consumer Council, as a body responsible for mediating consumer disputes, is an alternative for lodging complaints against insurance services.

The Enforcement Division of MPFA is responsible for handling complaints against approved trustees. Consumers are encouraged to contact the trustees of their schemes in the first place to reflect their dissatisfaction and seek resolution, before filing a complaint with MPFA. The Enforcement Division is also responsible for handling complaints against MPF intermediaries for non-compliance with the performance requirements, and/or a person for carrying on regulated activities without MPF intermediary registration. Furthermore, complaints against MPF intermediaries can also be made to the IA.

One of MPFA core functions is to ensure employers and administrators of ORSO schemes operate ORSO schemes in accordance with the Occupational Retirement Schemes Ordinance (Cap 426), Mandatory Provident Fund Schemes (Exemption) Regulation (Cap 485 sub. leg. B) and in a prudent manner. The ORSO Schemes Section of MPFA is responsible for handling complaints against employers and administrators of ORSO schemes.

Financial Dispute Resolution Centre (FDRC) is an independent and impartial organisation administering the Financial Dispute Resolution Scheme (FDRS) which requires financial institutions, members of the FDRS, to resolve monetary disputes with their customers through mediation and/or arbitration. FDRC will only handle a dispute that fulfills all of the following conditions (known as 'Eligible Disputes') –

(1) the financial services provider involved in the dispute must be a member financial institution of the FDRS (known as a FI);
(2) involves an Eligible Claimant (EC);
(3) is of monetary nature; and
(4) must arise out of a contract between the EC and the FI that was entered into or arose in Hong Kong, or any act or omission of the FI in connection with the provision of a Financial Service to an EC where the FI acted as an agent.

Generally, all disputes which have to first been raised by an EC with the relevant financial institution so as to give the financial institution an opportunity to resolve it directly, before FDRC involvement. Also, FDRC does not handle a dispute if the EC has lodged the complaint against the FI with the ICB currently or if FDRC knows that the dispute has been the subject of court proceedings where there is a decided judgment.

Other useful links for this section are listed below for additional background information:

- Insurance Complaints Bureau (ICB) – http://www.icb.org.hk/en/
  - http://www.icb.org.hk/en/how_lodge_complaint.html
  - http://www.icb.org.hk/en/claim_procedures.html
- Insurance Agents Registration Board of HKFI - https://www.hkfi.org.hk/#!/insurance-agent/index
- Hong Kong Confederation of Insurance Brokers (HKCIB) - http://www.hkcib.org/hkcib/index.jsp

- Professional Insurance Brokers Association (PIBA) - http://www.piba.org.hk/
- Small Claims Tribunal - https://www.judiciary.hk/en/court_services_facilities/scf.html
- Motor Insurers' Bureau - http://www.mibhk.com.hk/eng/index.php
- Employees Compensation Insurer Insolvency Bureau - http://www.eciib.com.hk/
- Consumer Council - https://www.consumer.org.hk/
    - https://www.consumer.org.hk/ws_en/complaints_and_advices/how_to_complain/howtocomplain.html
- Enforcement Division of Mandatory Provident Fund Schemes Authority - http://www.mpfa.org.hk/eng/enforcement/index.jsp
    - http://www.mpfa.org.hk/eng/main/contact_us/complaints/trustees/index.jsp
- Financial dispute resolution centre - https://www.fdrc.org.hk/en/html/resolvingdisputes/resolvingdisputes_jurisdiction.php

3.1.4.2 Anti-money laundering (AML) & counter-terrorist financing (CTF)

In light of the heightened scrutiny of the risks of money laundering and terrorist financing at the international level, the Financial Services and the Treasury Bureau has taken over the coordinating role for anti-money laundering (AML) and counter-terrorist financing (CTF) policies with effect from October 2008. The Bureau is responsible for the Hong Kong's overall compliance with the recommendations made by the Financial Action Task Force (FATF) - they are famously known as *40+9 recommendations*.

Obligations of insurers are governed by Section 7 of the Anti-Money Laundering and Counter Terrorist Financing (Financial Institutions) Ordinance, Cap 615 (AMLO) and Section 4A of the Insurance Ordinance.

The AMLO imposes requirements related to customer due diligence and record keeping on financial institutions (which include insurance companies) and provides relevant authorities (namely HKMA, IA, MPFA and SFC) with the powers to supervise compliance with these requirements and other requirements under the AMLO.

The insurance industry is vulnerable to ML and TF. The inherent characteristics of insurance products may give rise to ML risks unique to the insurance industry. When a life insurance policy matures or is surrendered, funds become available to the policyholder or other beneficiaries (e.g. an assignee, where the policy has been assigned, or a trustee, where the policy has been placed in trust). The beneficiary to the contract may be changed possibly against payment before maturity or surrender, in order that payments can be made by the insurer to a new beneficiary. A policy might be used as collateral to purchase other financial instruments. These investments in themselves may only be one part of a sophisticated web of complex transactions with their origins elsewhere in the financial systems.

Examples of the type of long term insurance contracts that are vulnerable as a vehicle for laundering money or financing terrorism are products such as:

- Unit-linked or with profit single premium contracts
- Single premium life insurance policies that store cash value
- Fixed and variable annuities

- (second-hand) endowment policies

It is therefore important for actuaries to bear in mind the risk of ML and TF when designing products. In addition, post sales, it is necessary to put in place early warning system to track suspicious customer behaviour.

Useful links:

- GL3 - Guideline on Anti-Money Laundering and Counter-Terrorist Financing *(Sections 1.12b, 1.12c, 2.9 - 2.18, and Pages 66-67 Section 5.9)* - https://www.ia.org.hk/en/legislative_framework/files/GL3.pdf
- FATF 40 recommendations *[Pages 12 (consumer due diligence), 13-17]* - http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html
- Additional info from Joint Financial Intelligence Unit (JFIU) - http://www.jfiu.gov.hk/en/legislation.html

3.1.4.3 Data protection

Personal data of policyholders are collected extensively in the insurance business. Thus, regulators place great importance on the proper handling of personal data.

Data privacy of the policyholders is a concern of the regulators. During the course of providing insurance services, customer's personal data are collected extensively. Therefore, the regulators attach great importance to the proper handling of personal data.

The law in HK governing this is the Personal Data (Privacy) Ordinance, Cap 486. The objective of the Ordinance is to protect the privacy rights of a person in relation to personal data. A body has been established under the Ordinance to oversee its application, namely the Office of the PCPD. Everyone who is responsible for handling data is required to follow the Six DPPs which represents the core of the Ordinance covering the life cycle of a piece of personal data:
(1) Data collection principle
(2) Accuracy & retention principle
(3) Data use principle
(4) Data security principle
(5) Openness principle
(6) Data access and correction principle

The PCPD has issued a guidance note on the proper handling of customers' personal data for the insurance industry. The guidance notes set out the DPPs which underpin the proper treatment of personal data. The Guidance Note also discusses the use of personal data for direct marketing purposes.

The PCPD also prescribes the general principles in collecting customer's medical data for insurance application and claim processing. It is stipulated that only the relevant and necessary medical data should be collected and the collection should be made by lawful and fair means.

If third parties are entrusted with the handling of customers' personal data, insurance companies must ensure that the data are handled safely and would be erased afterwards to prohibit further use of the data. Appropriate precautionary measures to protect personal data must be adopted. For more details, the recommended practice for data handling by outsourced contractors is listed on P.21-22 of the guidance note for the insurance industry. Insurance institutions and insurance practitioners are advised to refer to the information leaflet "Outsourcing the Processing of Personal Data to Data Processors" issued by the Privacy Commissioner for engaging data processors.

If third parties are entrusted with the handling of customers' personal data, insurance companies should ensure the safe handling and erasure of the data by the contractors and to prohibit further or other use of the data. Appropriate precautionary measures to protect the personal data must be adopted. Recommended practice is available on pages 21-22 of the Guidance Note from PCPD. There is also an information leaflet on "Outsourcing the Processing of Personal Data to Data Processors" issued by the Privacy Commissioner.

Useful links:

- Office of the Privacy Commissioner for Personal Data - https://www.pcpd.org.hk/
  - https://www.pcpd.org.hk/english/resources_centre/publications/guidance/guidance.html
- 6 key data protection principles promulgated by the PCPD -
  - https://www.pcpd.org.hk/english/data_privacy_law/ordinance_at_a_Glance/ordinance.html#1 *(Page itself)*
  - Ordinance: https://www.elegislation.gov.hk/hk/cap486!en-zh-Hant-HK.pdf?FROMCAPINDEX=Y *(Schedule 1 of Cap.486 Personal Data (Privacy) Ordinance, Pages 145-151)*
- Guidance on the proper handling of customers' personal data for the insurance industry - https://www.pcpd.org.hk//english/resources_centre/publications/files/GN_insurance_e.pdf
- Circular from IA regarding personal data protection - https://www.ia.org.hk/en/legislative_framework/circulars/reg_matters/files/cir_20100818.pdf

3.1.4.4 Outsourcing

It has become increasingly common for insurance companies to outsource their business activities, both customer-related and back-office services, as a way to reduce costs. Such arrangements bring about increased risks related to the dependence on third parties. IA has issued a Guideline 14 – Guideline on outsourcing (GL14) to guide insurance companies on formulating and monitoring outsourcing arrangements. It is important to remember that outsourcing does not diminish the obligations of an insurer to comply with the relevant laws and regulations. Annex 1 of GL14 provides a list of services that, when performed by a service provider, may be regarded as outsourcing. The list is shown below for reference:

- Application processing (e.g. insurance proposals, policy loans)
- Policy administration (e.g. premium collection, invoicing, policy renewals, customer services)

- Claims processing (e.g. claims assessment, claims recoveries)
- Documents processing (e.g. cheques, bill payments)
- Investment management (e.g. portfolio management, cash management)
- Manpower management (e.g. manpower planning, staff recruitment, salaries and benefits administration, training and development)
- Marketing and research (e.g. product development, telemarketing, media relations)
- Information system management (e.g. information system, intranet and website development and maintenance, information technology security, desktop support)
- Risk management and internal control (e.g. compliance, internal audit)
- Professional services related to the business activities of the authorised insurer (e.g. accounting, actuarial)

The following are some examples of activities that would generally not be regarded as outsourcing according to GL14:

- Sale of insurance policies by agents or brokers, and ancillary services relating to those sales
- Ceding insurance business
- Independent advisory and consultancy services Loss adjusting service
- Independent audit review
- Medical examination by assigned medical and health clinics and centres
- Market information services (e.g. Standard & Poor's, Moody's)
- Purchase of goods and commodities
- Repair and maintenance of fixed assets
- Maintenance and support of licensed software
- Specialised recruitment and procurement of specialised training
- Employment of contract or temporary personnel
- Common network infrastructure (e.g. VISA, Mastercard)
- Banking services
- Printing services
- Transportation services
- Mail and courier services
- Cleaning services
- Utilities and telephone

The MPFA considers an outsourcing arrangement to an overseas service provider as a material change in respect of the retirement scheme. Trustees must ensure that the MPFA is notified of such arrangement, and provide to the MPFA information about the function, commencement date, service provider name, jurisdiction under which the outsourcing takes place and a copy of the service agreement. All existing and future outsourcing arrangements must comply with the Personal Data (Privacy) Ordinance (Cap. 486).

Other useful link for this section are listed below for additional background information:

- MPFA Circular regarding overseas outsourcing - www.mpfa.org.hk/eng/legislation_regulations/legulations_ordinance/circulars/mpf/files/tr_case.pdf

3.1.4.5 Anti-discrimination

As part of its 2014/2015 report, the Equal Opportunities Commission (EOC) in Hong Kong has conducted an analysis of insurance policies sold by countries with similar legislation to Hong Kong, which include Australia, Canada, New Zealand, the United Kingdom and the United States. The study found that, if actuarial data and other proven information support a risk differential, discrimination based on attributes such as sex, disability and age is lawful.

Based on the study results, sex is a common discriminator in life insurance overseas, whereas the differentiation between groups in Hong Kong is mainly driven by commercial considerations. A major difference is the tendency of foreign insurers to offer greater coverage for pre-existing conditions in medical insurance. This contrasts with the popularity of coverage with exclusion of pre-existing conditions in Hong Kong. Besides, it was noted that actuarial data availability is much lower for medical insurance than for life insurance in Hong Kong, particularly because unlike other countries in the study, insurers in Hong Kong do not share medical data among themselves.

Insurers in Hong Kong are generally permitted to differentiate policyholders (offer different premium rates, policy acceptance and policy provisions) based on risk factors such as age, sex and occupation. However, it is unlawful to discriminate a person in the provision of insurance service under all the existing anti-discrimination ordinances in Hong Kong, i.e. the Sex Discrimination Ordinance (SDO), the Disability Discrimination Ordinance (DDO), the Family Status Discrimination Ordinance (FSDO) and the Race Discrimination Ordinance (RDO). Insurers can claim exception under the SDO (Section 51), DDO (Section 52) and FSDO (Section 38) if the differential treatment was (a) effected by reference to actuarial or other data from a source on which it was reasonable to rely; and (b) was reasonable having regard to the data and any other relevant factors. However, such exception is not provided under the RDO.

Under the SDO, it is unlawful to discriminate in the terms and conditions of employment or access to benefits, facilities or services, on the ground of sex, marital status or pregnancy. This applies to both existing contracts and new ones. Benefits could be in the form of fringe benefits, commissions, bonuses, allowances, pensions, health insurance plans, annual leave, merit and performance pay, or any other benefits available to employees generally. Group insurance actuaries should be mindful of any potential discrimination in product design.

Under the DDO, providing a less favourable term to a person on the ground of his/her disability may constitute a direct discrimination. The anti-discrimination law recognises that insurance necessarily involves the classification of risks and that premiums are tailored to reflect such risks. The EOC has developed a case study on discrimination in insurance to help the public to better understand the issue. The case involves potential discrimination against an applicant when the insurance company increases the premium for his basic life plan and refuses his application for additional coverage. The case concludes by explaining that this only constitutes as discrimination if the company fails to demonstrate that the decision is based on reasonable data from a reliable source. For more information, refer to:

http://www.eoc.org.hk/eoc/graphicsfolder/inforcenter/newsletter/content.aspx?itemid=7886&mode=ce

Section 22 of the RDO applies to commission agents, who are remunerated fully or partially through commission for work done for their principals. An insurance company (principal) should not discriminate against its insurance agents (agent) on the ground of race. There are similar provisions under the other 3 anti-discrimination ordinances, including Section 20 of the SDO and DDO and Section 16 of the FSDO.

While advancing technology and underwriting techniques continue to encourage improvement in risk underwriting, the development of new insurance methodology or technology, such as genetic testing, could be hindered by concerns around privacy and discrimination. With all the hype around insurtech nowadays, there is no doubt that such concerns would be more significant.

Other useful link for this section are listed below for additional background information:

- Equal Opportunities Commission (EOC) - http://www.eoc.org.hk/default.asp

3.1.4.6 New guidelines on enterprise risk management for risk based capital regime

In January 2019, the IA issued the Guideline 21 on Enterprise Risk Management (ERM) as part of the Pillar 2 (i.e. qualitative) requirements under the new Risk based Capital (RBC) regime. The stress and scenario testing are prescribed by the HKIA, with specific parameters for the year ending 31 December 2020 contained in the related documents link below. Two sets of scenarios are provided – one for long term insurers, and the other for general insurers. For long term insurers, testing is to be performed on various market risks (interest rate, equity, property and credit), life insurance risk scenarios, and a combination of both. For general insurers, scenarios include market risks, insurance losses, and a combination of both.

The related documents are available at:

- https://www.ia.org.hk/en/legislative_framework/circulars/reg_matters/files/cir_20190103.pdf
- https://www.ia.org.hk/en/legislative_framework/files/GL21.pdf
- https://www.ia.org.hk/en/legislative_framework/files/GL21_GI_SST_20200113.pdf
- https://www.ia.org.hk/english/legislative_framework/files/GL21_LT_SST_20210111.pdf

3.1.5 Reinsurance and Captives

Under the IO, an insurer is required to arrange adequate reinsurance protection unless there are justifications not to do so. A sound reinsurance management framework is commonly found within an insurance company's risk management toolkit. The IA sets standards for the use of reinsurance and other forms of risk transfer, ensuring that insurers adequately control and transparently report their risk transfer programmes.

In July 2018, the IA obtained preferential terms under mutual equivalence with China Banking and Insurance Regulatory Commission. The preferential terms aim to:

- facilitate the co-operation between the Mainland and Hong Kong in cross-border reinsurance business, enabling the Hong Kong insurance industry to assist Mainland enterprises more effectively in diversifying and managing risks, including supporting Mainland enterprises' participation in the infrastructure and investment projects under the Belt and Road Initiative.
- help sharpen the competitive edge of the Hong Kong insurance industry and strengthen Hong Kong's position as a reinsurance hub in Asia.

The relevant information can be found at:
https://www.ia.org.hk/en/infocenter/press_releases/Insurance_Authority_and_China_Banking_and_Insurance_Regulatory_Commission_implement_preferential_treatment_to_promote_the_development_of_Hong_Kong_reinsurance_industry.html

3.1.5.1 GL 17: Guideline on reinsurance

With reference to the requirements stipulated in the ICP, the IA issued GN 17 (now known as GL 17) on June 1, 2016, setting out prudent practices relating to reinsurance management and general guiding principles of the IA in assessing the adequacy of the reinsurance arrangements of an insurer. For the avoidance of doubt, all insurers should also comply with GN 12 (now known as GL 12) "Guideline on Reinsurance with Related Companies".

While GL 12 focuses primarily on the adequacy of reinsurance arrangements, GL 17 provides guidance on the reinsurance management framework, adequacy of reinsurance arrangements, alternative risk transfer arrangements such as special purpose vehicles, arrangements with insignificant risk transfer and reinsurance reporting.

The effective date of GL 17 is 1 January 2017.

3.1.5.2 Captive insurance

Unlike any regular insurance or reinsurance company, a captive insurance company can only assume insurance risks from companies within the group in which the captive belongs. As the insurance losses are ultimately absorbed by the group as a whole, the general public is not affected by the claim experience of the captive. Correspondingly, captive insurance companies enjoy regulatory concessions and are subject to less restrictive regulations than typical insurance or reinsurance companies.
Currently, there is a limited number of captive companies operating in Hong Kong. Following the issuance of GL 17 that explicitly allows companies to use special purpose vehicles to transfer risk to the capital market.

3.1.6 Recent industry developments

3.1.6.1 Regulation and accounting related topics

Regulations and governing bodies of the insurance industry in Hong Kong have not changed significantly during the last few decades. The insurance market and the risk profiles of companies in Hong Kong, on the other hand, evolve rapidly due to factors such as competition, rise of consumerism, and globalisation. In addressing the wide range of changes in the insurance industry driven by social, technological and global economic forces, the IAIS has introduced Insurance Core Principles (ICPs) which provide a globally accepted framework for the supervision of the insurance sector. The ICPs have driven some of the regulatory changes in Hong Kong in recent years, e.g. the introduction of GL 15 and GL 16. Further changes in the regulatory environment of the insurance industry in Hong Kong are expected, including:

- Establishment of the IA
  - IA is financially and operationally independent of the Hong Kong government.
  - IA replaced OCI in Hong Kong on June 26, 2017.
  - Thereafter, IA will also integrate with the current regulatory authorities of intermediaries such as HKCIB, PIBA and IARB under the HKFI.
  - Besides being the regulatory body, IA's other responsibilities include promoting a healthy and sustainable insurance industry in Hong Kong.

- The solvency margin requirement may be changed from the current Solvency-I type regulation to a risk-based solvency requirement.
  - Current solvency requirement is a rules-based regulation where the required solvency is based on the mathematical reserve and sum at risk which may not appropriately reflect the risk profile of an insurance company.
  - The IA released a consultation paper in 2014, in which it announced plans to develop a risk-based capital framework for the Hong Kong insurance industry.
  - The paper provides a high-level description of the RBC framework. Similar to other jurisdictions, HK RBC would follow a "Three-Pillar" approach, covering (i) quantitative aspects, (ii) qualitative aspects, and (iii) disclosure:
    - **Pillar 1 – Quantitative aspects**. The primary purpose of imposing capital adequacy requirements is to ensure that an insurer's obligations to policyholders will be met. The centerpiece of an RBC framework is to make capital requirements risk-sensitive such that higher risks would require more capital.
    - **Pillar 2 – Qualitative aspects**. This pillar involves the enhancement of enterprise risk management (ERM) and the requirement to conduct Own Risk and Solvency Assessment (ORSA) by insurers. An integral part of an RBC framework is to promote increased standards of corporate governance and enterprise risk management, and therefore encourage insurers to manage risk appropriately. The qualitative requirements will also help insurers better understand and control

their businesses, reduce volatility of earnings, support delivery of strategic objectives, and assist in supporting a higher credit rating.

        - **Pillar 3 – Disclosure**. It includes disclosure both to the supervisor and the public. Disclosure is a general feature of the modern systems of financial services supervision. The IA consultation paper contains proposals regarding capital supervision on locally-incorporated insurers and the Hong Kong branch of overseas insurers.

    - In order to assess the likely impact of Pillar 1 on the industry and to ensure that the new regime is viable and practicable, an industry-wide quantitative impact analysis (QIS) was called for. Requirements for the first QIS (QIS 1) were released in July 2017, submissions were subsequently collected and then presented in early 2018. In August 2018, QIS 2 requirements were released with a result submission date of 30 November 2018. QIS 2 requirements are more complex than QIS 1, containing a few revisions on QIS 1 and requiring higher stochastic capability. QIS 3 is expected to take place mid-2019.
    - Pillar 2 will be implemented ahead of Pillar 1 – the ERM Guideline has been issued and can be found at https://www.ia.org.hk/en/legislative_framework/files/GL21.pdf. Studies on Pillar 3 will be conducted by early 2019 with industry consultation tentatively scheduled for 2020.

- Policyholder protection fund (PPF) may be adopted as an additional buffer to protect insurance policyholders from losses due to insolvency of insurance companies.
    - The IA has been conducting studies, dialogue with industry stakeholders, briefing of Legislative Council and public consultation around the feasibility and design of a Policyholder Protection Fund (PPF) since 2002. Some segments of the society are supportive of a compensation fund which would help boost consumer confidence, while some members of the insurance industry were concerned about possible moral hazards. A finalised scheme was published in early 2012.
    The public consultation paper on the PPF proposals can be found here:
    http://www.fstb.gov.hk/fsb/ppr/consult/doc/consult_ppf_e.pdf.

    Responses to the consultation and the final outcomes are documented here:
    https://www.fstb.gov.hk/fsb/ppr/consult/doc/Eng_final.pdf.

    - PPF is an additional layer of safety net for policyholders and comprises two schemes: life scheme and non-life scheme.
    - PPF provides only limited coverage and should not be construed as a compromise of enterprise risk management or regulatory standards.

- IFRS 17 (previously IFRS 4 Phase 2)
    - Historically, Hong Kong Financial Reporting Standards (HKFRS) follow International Financial Reporting Standards (IFRS) with limited variation. IFRS 4, which provides guidance for the accounting of insurance contracts, was released by the International Accounting Standards Board (IASB) in March 2004.

- Since then there has been extended consultation around upgrading the standard – i.e. IFRS 17.
- In November 2016, the IASB set 1 January 2021 as the mandatory effective date of IFRS 17.
- In November 2018, the IASB voted to amend the IFRS 17 effective date from 1 January 2021 to 1 January 2022, meaning that there is one year delay on the effective date from the IFRS 17 standard issued in May 2017.

3.1.6.2 Social and relevant industry trends and development

- HKMC Annuity Plan
  - HKMC Annuity Limited, wholly-owned by the HKMC, launched the HKMC Annuity Plan.
  - The plan provides retirees an option for retirement planning where they can turn part of their savings into life-long streams of guaranteed, stable and fixed annuity income. Under the plan, Hong Kong Permanent Residents aged 65 years or above are qualified.
  - Reference to product features and other details: https://www.hkmca.hk/files/hkmcap_small_banner/1/HKMCA_Product%20Brochure_ENG_accessibility.pdf

- Voluntary Health Insurance Scheme (VHIS)
  - Hong Kong prides itself on its efficient healthcare system which is heavily government subsidised. Public healthcare is equitable, affordable and accessible to all. Hong Kong's private healthcare complements the public system by providing personalised options and amenities that suit specific requirements to individuals. The Government continues to uphold and strengthen its commitment with the introduction of VHIS.
  - The VHIS is part of the government's effort in recalibrating the public-private balance. It regulates individual indemnity hospital insurance products with voluntary participation by insurance companies and consumers. As more people will be willing to make use of private healthcare service through the VHIS, resources can be released in the public sector to enhance service quality and reduce waiting time. VHIS promotes synergy between the public and private sectors and more efficient use of public and private healthcare resources. The VHIS scheme details will finalise in due course.
  - VHIS is a policy initiative implemented by the Food and Health Bureau to regulate individual indemnity hospital insurance products, with voluntary participation buy insurance companies and consumers.
  - VHIS aims to enhance the protection level of hospital insurance products, provide the public with an additional choice of using private healthcare services through hospital insurance, and relieve the pressure on the public healthcare system in the long run.
  - Introduction to VHIS: https://www.vhis.gov.hk/en/about_us/scheme.html
  - VHIS – Standard vs Flexi Plans: https://www.vhis.gov.hk/en/consumer_corner/list-plans.html

- Insurtech development in Hong Kong
    - The HKMA, SFC and IA each launched sandbox initiatives to facilitate the development of financial technologies (FinTech) in Hong Kong.
    - The development of FinTech is important in strengthening the role of Hong Kong as an international financial center. The IA has been closely monitoring the development and application of technology in the insurance industry, i.e. InsurTech, and proactively assisting market participants to tackle InsurTech-related regulatory issues.
    - The IA launched an InsurTech Sandbox to facilitate a pilot run of innovative InsurTech applications by authorised insurers to be applied in their operations.
    - The IA observes that authorised insurers may have initiatives in applying innovative technologies in their business operations but may be uncertain if those initiatives can meet the supervisory requirements of the IA. With a view to promoting technology development for the insurance industry in Hong Kong, the IA considers it necessary to adopt some flexibility in the supervisory requirements. The IA would consider an Insurtech initiative to be a pilot run under the Sandbox to collect sufficient data to demonstrate to the IA that such Insurtech application can broadly meet relevant supervisory requirements arising from its codes and guidelines and other regulatory practices.