Annex 2

The Hong Kong Federation of Insurers ("HKFI")

Reference Checking Scheme for Insurance Intermediaries

Consent Form

To: AIA INTERNATIONAL LIMITED ("Recruiting Insurer")

Pursuant to the Reference Checking Scheme initiative of the HKFI, before appointing me to carry on regulated activities in long term insurance business, I understand that you ("Recruiting Insurer") are required to carry out reference checking on me for the purpose of assessing my (continued) fitness and properness to carry on regulated activities in long term insurance.

As I am being considered to be appointed by you as a licensed individual insurance agent, I agree to you or a third party engaged by you obtaining my reference(s) from my current and/or previous appointing long term insurer(s) (i.e. Responding Insurer(s)) in the last 7 years. I understand that if such consent is not provided by me or withdrawn by me, you will be unable to appoint me as your licensed individual insurance agent.

I agree that you or a third party engaged by you may transfer to each Responding Insurer my full name, my insurance intermediary licence number with the Insurance Authority and a copy of this Consent Form for the purposes of requesting my Reference Checking Information and later carrying out the reference checking assessment:

I understand that Reference Checking Information, which will be shared by the Responding Insurer(s) with you, may consist of the following:

1. Whether my previous appointment was terminated for incident(s) which cast doubt on my fitness and properness to be a licensed insurance intermediary, for example:

    (a) Breach of legal or regulatory requirements (including subsidiary legislations, rules, codes, guidelines, circulars or other regulatory instruments issued by the applicable regulator) in relation to the following legislation:
        (i) Insurance Ordinance (Cap. 41)
        (ii) Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615)
        (iii) Mandatory Provident Fund Scheme Ordinance (Cap. 485)
        (iv) Securities and Futures Ordinance (Cap. 571)
        (v) Banking Ordinance (Cap. 155)
    (b) Misconduct (e.g. misrepresentation, misappropriation of client's money, forged document, unauthorized signature on behalf of the client, unauthorized rebate, defrauding of commission, facilitating fraudulent claim etc.);
    (c) Criminal offence;
    (d) Disciplinary action by you or any regulators;
    (e) Bankruptcy;

2. If I had not resigned or otherwise left by myself, is it likely that my appointment would have been terminated for a matter set out in item 1 above;

3. Any ongoing internal investigation against me in relation to any of the matters sets out in item 1 above; and

4. Any outstanding / agent debts owed by me which may raise concern on my financial status and if yes, the amount of such debt.

I agree to my Reference Checking Information being requested from, and being provided by the Responding Insurers(s).

I hereby release and discharge each relevant Responding Insurer (including without limitation its affiliates and officers, directors, employees, third party processors and agents) from any and all claims, liability, actions, suits, demands, costs, expenses or indebtedness, under contract, tort or otherwise, arising out of, related to, or in any way connected with the disclosure of my Reference Checking Information as described herein.

I understand that the Reference Checking Information will be used by you to assess my fitness and properness to be appointed as your licensed individual insurance agent and may result in an appointment with you being withheld, terminated or withdrawn at your sole discretion. This applies in addition to, and should not be interpreted to limit in any way, the general discretion that you have to provide or withhold any offer to me.

Prospective Agent's Signature	Name of Prospective Agent *(as shown on HKID)*
	Insurance Authority's Licence Number
	Date 01/09/2024

Remarks for Prospective Agent:

(a) For handling of personal data provided to the Recruiting Insurer during the recruitment process, please also refer to the Personal Information Collection Statement (PICS) provided by the Recruiting Insurer in addition to the terms of this Consent Form. Your consent may be withdrawn at any time on written notice to the Recruiting Insurer. However, this means that the Recruiting Insurer will not proceed to appoint you as its licensed insurance intermediary.

(b) To ensure transparent and fair treatment to the prospective agent (You), you will be generally provided an opportunity to be heard (i.e. making written or oral representations) if the recruiting insurer decides not to proceed with your application based on any adverse information disclosed by a responding insurer in relation to you. Under such circumstances, the recruiting insurer should, upon your request, provide you with a copy of reference result it obtained from the responding insurer for representation.

(Effective 1 September 2024)

Annex 1

The Hong Kong Federation of Insurers("HKFI")

Reference Checking Scheme for Insurance Intermediaries

Reference Information Form Template

Date: 01/09/2024

Due: 16/09/2024

To: Please select ("responding insurer")

From: Please select ("recruiting insurer")

Subject: Reference Checking Request

According to the Register of Licensed Insurance Intermediaries maintained by the Insurance Authority, the following individual is currently appointed / was appointed by you in the past 7 years. Pursuant to the Reference Checking Scheme initiative of the HKFI, we make this reference checking request and would ask you to provide us with the following information relating to the following individual by the above stated due date.

The information to be provided should cover the period commencing 7 years prior to the date of this request. Written consent from the relevant individual is appended.

Individual's name (as shown on Hong Kong Identity Card / passport):

_____

Individual's licence number with the Insurance Authority:

_____

	Conduct Related Matters	**Response**
1	Was the individual's appointment terminated by you for incident(s) which cast doubt on the individual's fitness and properness to be a licensed insurance intermediary?	☐Yes / ☐No

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	For example, the incident may include: (If select "Yes", please tick the applicable box(es).) (a) ☐Breach of legal or regulatory requirements (including subsidiary legislations, rules, codes, guidelines, circulars or other regulatory instruments issued by the applicable regulator) in relation to the following legislation: (i) ☐Insurance Ordinance (Cap. 41)[1] (ii) ☐Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (iii) ☐Mandatory Provident Fund Scheme Ordinance (Cap. 485) (iv) ☐Securities and Futures Ordinance (Cap. 571) (v) ☐Banking Ordinance (Cap. 155*)* (b) ☐Misconduct (e.g. misrepresentation, misappropriation of client's money, forged document, unauthorized signature on behalf of client, unauthorized rebate, defrauding of commission, facilitating fraudulent claim etc.) (c) ☐Criminal offence (d) ☐Disciplinary action by you or any regulators (e) ☐Bankruptcy	
2	If the individual had not resigned or otherwise left by himself/herself, is it likely that you would have terminated the individual for a matter set out in item 1 above?	☐Yes / ☐No
3	Is the individual subject to your ongoing internal investigation in relation to any of the matters set out in item 1 above? *This question is subject to the responding insurer's assessment taking into consideration legal or regulatory requirements or other circumstances, which may restrict disclosure. If you are subject to such restrictions, or the answer is "no" please state "no" in the response column.*	☐Yes / ☐No
4	If you have answered "yes" to any questions above,	[N/A or other free text]

[1] Excluding the requirements relating to Guideline on Continuing Professional Development for Licensed Insurance Intermediaries (GL24) as the recruiting insurer can ascertain the relevant compliance records via the e-portal (i.e. Insurance Intermediaries Connect) maintained by the IA

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	please provide further supplementary information to the extent you consider appropriate. *Providing a response to this question is not mandatory. If legal or regulatory requirements restrict certain disclosures, which may make your responses incomplete or inaccurate, please state "N/A" in the response column.*	
	Other Matters	**Response**
5	Does the individual have any outstanding / agent debts owed to you which may raise concern on the financial status of the individual?	☐Yes / ☐No
6	If you have answered "yes" to question 5 above, please specify the amount of the relevant debt.	[Amount in HKD]

Disclaimer:

(a) The information provided is true, complete and accurate according to the responding insurer's best knowledge;

(b) The recruiting insurer takes full responsibility in relying on the information provided in the Reference Information Form in making its recruitment decision, and the responding insurer is excluded from liability in the absence of gross negligence or bad faith. The responding insurer is released and discharged (including without limitation its affiliates and officers, directors, employees, third party processors and agents) from any and all claims, liability, actions, suits, demands, costs, expenses or indebtedness, under contract, tort or otherwise, arising out of, related to, or in any way connected with the disclosure of the information under the Reference Check Scheme as described herein; and

(c) Due to legal or regulatory requirements, the responding insurer may not be able to provide information relating to the ongoing internal investigation.

Remarks:

(a) To ensure transparent and fair treatment to the prospective agent, the recruiting insurer should generally provide the prospective agent with an opportunity to be heard (i.e. giving the prospective agent the opportunity to make written or oral representations) if it subsequently decides not to proceed with his /her application based on any adverse information disclosed by a responding insurer in relation to the prospective agent. Under such circumstances, the recruiting insurer should, upon the prospective agent's request, provide him/her with a copy of reference result it obtained from the responding insurer for representation.

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Recruiting Insurer	**Responding Insurer**
Name of the handler for this reference check:	Name of the handler for this reference check:
Job Title:	Job Title:
Contact Tel:	Contact Tel:

For reference

The Hong Kong Federation of Insurers ("HKFI")

Reference Checking Scheme for Insurance Intermediaries

1. Introduction and objective

1.1 The reference checking scheme ("**reference checking scheme**") is an HKFI-led measure endorsed by the Insurance Authority ("**IA**") to assist in reducing the risks associated with "rolling bad apples" in the insurance sector.

1.2 A "rolling bad apple" refers to an individual insurance agent whose conduct and fitness and properness is called into question by findings made by his/her appointing principal, who then resigns in order to avoid any adverse consequences, and then takes up an appointment with a new principal without disclosing the problematic conduct arising during the previous appointment. If these "bad apples" are able to avoid accountability for their misconduct by simply "rolling on" to another principal, not only does this undermine the trust and integrity on which the insurance market must be founded, it also increases conduct risk (and hence risk to policy holder interests) across the insurance sector.

1.3 The HKFI believes that authorized insurers have both an individual and collective responsibility for protecting policy holder interests, maintaining public confidence in the market, and stopping "the few bad apples spoiling the whole barrel". To achieve this, the HKFI is introducing this reference checking scheme.

2. Interpretation

2.1 In this document, unless the context otherwise specifies:

"**long term insurer**" means an authorized insurer carrying on long term business under the Insurance Ordinance (Cap. 41) ("**IO**");

"**prospective agent**" means a prospective licensed individual insurance agent who was previously appointed by a responding insurer to carry on regulated activities in long term insurance business and who is seeking to be appointed by a recruiting insurer to carry on regulated activities in long term insurance business. This does not include individuals who are to be employed as internal staff members of the recruiting insurer but need to licensed as individual insurance agents because of their job duties ("**staff member agents**");

"**recruiting insurer**" means a long term insurer which is considering to appoint a prospective agent; and

"**responding insurer**" means a long term insurer which previously appointed (or currently appoints) the prospective agent as an individual insurance agent and which is expected to provide a reference to the recruiting insurer under the reference checking scheme in respect of the prospective agent.

(Effective 1 September 2024)

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3. Scope and application

3.1 The reference checking scheme covers the recruitment of every prospective agent by a long term insurer, as licensed individual insurance agents carrying on long term business make up the largest portion of licensed insurance intermediaries in the Hong Kong insurance market. The reference checking scheme does not (for the time being) cover licensed individual insurance agents who are solely carrying on regulated activities in general insurance business, licensed individual insurance agents who are staff member agents, technical representatives (agent) or technical representatives (broker).[1]

3.2 In broad terms, the reference checking scheme operates as follows:

(a) If a recruiting insurer is seeking to appoint a prospective agent and is aware that the prospective agent has previously been appointed by (or is currently appointed by) any other long term insurer(s) (i.e. responding insurer(s)) in the last 7 years, the recruiting insurer must seek references from (i) each responding insurer by whom the prospective agent was appointed in the last 7 years or (ii) if the prospective agent was appointed by more than three long term insurers in the last 7 years, at least from the previous three responding insurers by whom the prospective agent was most recently appointed, before making a decision on the appointment of the prospective agent (as detailed in section 4).

(b) The responding insurer(s) must provide such information as requested by recruiting insurer for the purpose of providing such reference(s) (as detailed in section 5).

(c) On receipt of the reference(s) from the responding insurer(s), the recruiting insurer must consider and take account of the information in those reference(s) before deciding whether or not the prospective agent is a fit and proper person to be appointed as its licensed individual insurance agent to carry on regulated activities in long term insurance business by the recruiting insurer (as detailed in section 6).

3.3 As stated in the circular dated 5 July 2024 issued by the IA, the reference checking scheme has the support and endorsement of the IA.

4. Making a reference checking request

4.1 Before appointing a prospective agent to carry on regulated activities in long term insurance business, a recruiting insurer should carry out reference checking on the prospective agent for the purpose of assessing his/her (continued) fitness and properness.

4.2 The reference checking should cover every previous appointment of the prospective agent by any long term insurer(s) in Hong Kong in the past 7 years, or if the prospective agent was appointed by more than three long term insurers in the last 7 years, at least from the previous three responding insurers by whom the prospective agent was most recently appointed ("**checking period**"). This means that before onboarding a prospective agent, the recruiting insurer should conduct reference checking with all the relevant long term insurer(s) which

[1] Consideration may be given to extending the scope of the scheme after the accumulation of experience in implementing it.

(Effective 1 September 2024)

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formerly appointed or currently still appoint the prospective agent to carry on regulated activities in long term insurance during the checking period.

4.3 To carry out the required reference check, the recruiting insurer should send a reference checking request to every responding insurer in relation to the prospective agent using the reference checking information template (see Annex 1), requesting the responding insurer(s) to provide a reference in relation to the prospective agent.

4.4 Before sending a reference checking request to any responding insurer(s), the recruiting insurer must obtain written consent from the prospective agent:

(a) authorizing the recruiting insurer to conduct reference checking with the prospective agent's current and former appointing responding insurers within the checking period;

(b) authorizing the responding insurer(s) to disclose the information being requested in the reference checking request to the recruiting insurer; and

(c) exempting the responding insurer(s) from any contractual obligations which may otherwise limit their abilities to disclose the information being requested in the reference checking request.

A template consent form (see Annex 2) has been developed which recruiting insurers should use for obtaining and recording the consent of the prospective agent for the collection and use of their personal data for the purpose of the reference checking scheme.

4.5 In case a prospective agent refuses to provide consent for the reference checking, the recruiting insurer should not appoint the prospective agent as its licensed insurance intermediary. For the avoidance of doubt, if the prospective agent provides consent but then subsequently withdraws that consent for the reference checking, the recruiting insurer should not appoint the prospective agent as its licensed insurance intermediary.

4.6 Where a prospective agent is to be appointed by two long term insurers (i.e. there are two recruiting insurers), both recruiting insurers are required to conduct reference checking on the prospective agent as part of their onboarding measures. If, however, both recruiting insurers are in the same group of companies, it is acceptable for the recruiting insurers to enter into an arrangement, whereby one of the recruiting insurers (the primary recruiting insurer) conducts the reference checking which both recruiting insurers then rely on. For the avoidance of doubt, such arrangement does not diminish the other recruiting insurer's ultimate accountability for its obligation to ensure it has in place adequate internal control measures for onboarding of prospective agents. It is also crucial that the other recruiting insurer has access and control to the prospective agent's reference checking results performed by the primary recruiting insurer.

5. Responding to a reference checking request

5.1 On receipt of a reference checking request from a recruiting insurer, a responding insurer should complete and return the reference information requested to the recruiting insurer in accordance with the following timeframes:

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(a) within **15 calendar days** starting from the date of reference checking request; or

(b) if the responding insurer considers it will not be able to respond within 15 calendar days, it must send an interim reply within the above prescribed timeframe, stating the reason for the expected delay and the expected time for the final reply. Such final reply, however, must be provided within 2 months from the date of reference request.

To ensure the effectiveness of this scheme, the responding insurer should endeavour to adhere to the 15-calendar days timeframe in (a); and the alternative in (b) should only be used on an exceptional basis with justification which is approved by its key person in control function for intermediary management ("**KPIM**")[2].

5.2 When providing a reference, the responding insurer should adhere to the following guiding principles:

(a) The reference provided should be true, accurate, fair, complete and capable of substantiation (e.g. based on the compliance records maintained by the responding insurer rather than the comments from the upline managers or agency leaders);

(b) subject to the legal or regulatory disclosure restriction, the responding insurer should not withhold any information which may render the reference unfair, incomplete or inaccurate; and

(c) the responding insurer is not obliged to provide information which is beyond the scope of the reference checking request (based on the template in Annex 1).[3]

Accordingly, the responding insurer should establish and maintain appropriate controls and procedures for ensuring its adherence to the above guiding principles. To avoid conflict of interest and ensure fairness, the reference to be provided by the responding insurer should not be prepared by a person who has economic relationship with the perspective agent (e.g. upline managers or agency leaders).

5.3 In respect of any internal investigation being carried out by the responding insurer in relation to the prospective agent which is ongoing at the time the reference checking request is received, the responding insurer should use its own judgement on whether or not to share any information in relation to (or even the existence of) the investigation with the recruiting insurer based on the following factors:

(a) applicable legal and regulatory requirements;

(b) the status of investigation (e.g. preliminary assessment where fact-finding has not yet been completed, or the prospective agent has yet to be offered an opportunity to explain etc.); and

[2] The approval or endorsement can also be performed by an authorized person delegated by KPIM. However, such arrangement does not diminish the ultimate responsibility and accountability of KPIM in the relevant approval and endorsement process. To avoid conflict of interest and ensure fairness, the authorized person should not have any economic relationship with the prospective agent (e.g. upline managers or agency leaders).

[3] If, however, the responding insurer believes that additional information is of material relevance to the assessment of the fitness and properness of the prospective agent, it may disclose further facts to the recruiting insurer on a voluntary basis if it wishes to do so.

(Effective 1 September 2024)

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(c) the risk of jeopardizing an investigation (for example, do the circumstances suggest any risk of the prospective agent tipping off others under investigation if the investigation is not kept confidential; or would disclosure risk the information gathering exercise).

5.4 For the avoidance of doubt and without prejudice to section 6, a recruiting insurer has full discretion to consider whether or not to seek further information/clarification from/with the responding insurer based on the information provided by the responding insurer. The responding insurer also has full discretion as to whether to respond to such a request. Any response from the responding insurer should be made within 15 calendar days from the date of the request. If no response is received within 15 calendar days, the recruiting insurer may presume no further information/clarification is to be provided by the responding insurer.

6. Assessment by the recruiting insurer

6.1 A recruiting insurer has full discretion in deciding whether or not to proceed with the appointment of a prospective agent after making its internal assessment and based on all relevant information available to it including information received in response to the reference checking requests it has made. Where adverse information in relation to a prospective agent has been disclosed by a responding insurer, the recruiting insurer should still exercise its discretion on whether or not to appoint the prospective agent after taking into consideration of all relevant matters such as the nature and timing of the conduct giving rise to the adverse information, any explanation obtained from the prospective agent (see 6.2 below) and the likelihood of the prospective agent repeating the same or similar conduct.

6.2 To ensure transparent and fair treatment of the prospective agent, if the recruiting insurer is considering not to appoint the prospective agent (based on any adverse information disclosed by a responding insurer in relation to the prospective agent), the recruiting insurer should generally provide the prospective agent with an opportunity to be heard (i.e. giving the prospective agent the opportunity to make written or oral representations). Under such circumstances, the recruiting insurer should, upon the prospective agent's request, provide him/her with a copy of reference result it obtained from the responding insurer for representation. Nonetheless, an opportunity to be heard does not, however, mean that the responding insurer has to re-open any previous investigation. Furthermore, the recruiting insurer is not obliged to seek further information/clarification from the responding insurer(s).

6.3 If a recruiting insurer decides to proceed with the appointment of a prospective agent despite the prospective agent having any adverse records disclosed in the reference checking process, the recruiting insurer should document its assessment and justification for proceeding with the appointment. Such assessment and justification must be endorsed by the KPIM[2] of the recruiting insurer.

6.4 In general, the recruiting insurer should complete the reference checking process before appointing a prospective agent. However, in case where the recruiting insurer would like to advance the appointment decision before the completion of the reference checking, it may exercise flexibility to make the appointment if:

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(a) all the reference checking requests have been sent out and have been outstanding for at least 15 calendar days;

(b) the prospective agent has made a self-declaration that there is no adverse record known to him/her; and

(c) the recruiting insurer, at the time of making appointment, is not aware of any other information that casts serious doubt on the fitness and properness of the prospective agent to be a licensed individual insurance agent.

6.5 Where the recruiting insurer, in response to a reference checking request, receives information about an ongoing investigation in respect of the prospective agent, the reference checking process is deemed to be completed at the time the recruiting insurer finishes its internal assessment and makes a decision on whether or not to proceed with the appointment based on the information available to it at that time. In such case, the recruiting insurer would have full discretion as to whether to make its own appointment decision before obtaining any further update/clarification from the responding insurer concerned. The justification of the appointing decision should be documented with endorsement by the KPIM[2] of the recruiting insurer.

6.6 If the recruiting insurer receives any further information from the responding insurer subsequent to the appointment of the prospective agent, it is up to the recruiting insurer to decide how to make use of such information to evaluate the prospective agent (now appointed) and whether any further actions should be taken (e.g. to terminate the appointment subsequently).

7. Records

7.1 A long term insurer should maintain sufficient records of the licensed individual insurance agents who have ceased to be appointed by it, for the purpose of adhering to the standards expected in this reference check scheme (i.e. at least 7 years). As for the exact (or maximum) retention period of agents' records, the insurer should follow its internal data retention policy after taking into account its own circumstances with a general principle that personal data is not kept longer than is necessary for the fulfilment of the purpose for which the data is used.

7.2 A recruiting insurer should keep proper records of its arrangement (e.g. section 4.6), assessment and justification for the appointment (e.g. section 6.3 and 6.5) for audit trail purpose. Similarly, a responding insurer should also maintain proper records of the relevant documents justifying the information provided in the reference checking though it is not obliged to provide the supporting documents to the recruiting insurer. All the aforesaid records and documents should be made available to the IA upon request.

7.3 If a recruiting insurer decides not to appoint the prospective agent after going through the reference checking process ("unsuccessful application"), it should follow its internal data retention policy to discard the relevant records. However, the recruiting insurer, in general, should not retain the data relating to an unsuccessful application for a period longer than 2 years from the date of the decision not to recruit unless there is a subsisting reason that

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obliges the recruiting insurer to retain the data for a longer period or the prospective agent have given his/her express consent.

7.4 To facilitate exchange of information and ensure proper record keeping, long term insurers should set up a designated centralized email for sending and receiving the reference checking request in a secured manner, and such email address should be provided to the HKFI's for record purpose and the HKFI can share the email address(es) to authorised insurers upon request.

7.5 Long term insurers should uphold the principles of accountability and data ethics when collecting and using personal data obtained under the reference checking scheme. They should explain the purposes and the processes involved to the relevant stakeholders and ensure they are treated in a fair and respectful manner. In addition, insurers should put in place adequate controls and procedures to safeguard the integrity and confidentiality of information obtained and to comply with the requirements of Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO"). For example, particular attention should be given to the following aspects:

(a) long term insurers should take all practicable steps to ensure that prospective agents are informed of matters relating to the collection of their personal data, such as the purpose for which the data is to be used and the classes of persons to whom the data may be transferred. Hence, appointing principals should inform their appointed agents of the type of data that will be collected, how they will use the data and how they will transfer the data to recruiting insurers (and any designated third parties) for reference checking under the Scheme. When requesting for a reference checking, a recruiting insurer should ensure its Personal Information Collection Statement provided to the prospective agents complies with the data protection principles set out in the PDPO.

(b) since the personal information relating to the reference checking is relatively sensitive, it is important for the long term insurers to put in place adequate security measures to ensure that the data is securely kept and transmitted (e.g. with encryption), and to prevent unauthorised accessed by any other third parties.

(c) if long term insurers outsource the relevant reference checking process to external service providers, then such designated third parties would be processing the prospective agents' personal data as data processors. In this context, the long term insurers should adopt contractual or other means to prevent any personal data transferred to the data processor from being kept longer than is necessary for processing of the data, as well as to prevent unauthorised or accidental access, processing, erasure, loss or use of the data transferred to the data processor for processing. For the avoidance of doubt, the long term insurers bear the ultimate responsibility for the outsourced activity to the service provider.

8. Commencement

8.1 This reference checking scheme shall take effect from 1 September 2024.

(Effective 1 September 2024)

For reference

The Hong Kong Federation of Insurers
Reference Checking Scheme for Insurance Intermediaries

Common Q&A
(Life Insurance Company)

Management Perspectives

1. Why does the Hong Kong Federation of Insurers (HKFI) introduce this scheme?

The Reference Checking Scheme for Insurance Intermediaries aims to assist in eliminating the rolling bad apple phenomenon in the insurance sector (i.e. where individuals who had misconduct during their employment in one insurer can obtain subsequent employment in another insurer without any consequence by not disclosing their misconduct).

The rolling bad apple phenomenon may give rise to operational, reputational, financial, and other risks for the recruiting insurer, expose policy holders to potential prejudice, and undermine public confidence in the insurance sector. There have already been cases exposed through the media and the Independent Commission Against Corruption ("ICAC") in the past few years.

To protect the professional and ethical image of life insurers and agency force, to provide guidance for onboarding prospective agents among life insurers, and to ensure sustainable development of the insurance sector, the HKFI initiates and implements this scheme as a Best Practice. The scheme is endorsed and supported by the Insurance Authority ("IA").

2. Does the scheme apply to all authorized life insurers operating in Hong Kong?

Concerted efforts of life insurers are required to minimize the rolling bad apples phenomenon. As a result, all authorized insurers carrying on long-term business under the Insurance Ordinance (Cap. 41) are expected to adopt this scheme. According to the IA and in its perspective, if an authorized long-term insurer does not adopt this scheme, it can expect close follow-up scrutiny from the IA and will need to explain to the IA, what alternative measures it is taking to combat the conduct risks arising from the rolling bad apple phenomenon. If the measures are not to the IA's satisfaction, heightened scrutiny will likely be placed by the IA on the licensing applications submitted by the insurer thereby affecting the speed at which they are processed.

3. What should I do to support my team member(s) to implement the scheme within the company effectively?

Section 5.1 of the paper of the Reference Checking Scheme for Insurance Intermediaries indicates that the key person in control function for intermediary management (KPIM) will hold ultimate responsibility and accountability in the relevant approval and endorsement process. However, the key person can delegate the handling and authority to an authorised person(s) with proper documentation.

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Appropriate training for team member(s) handling the scheme should be provided. If any team member has any doubts, he or she can seek assistance from the Legal & Compliance team, key persons, and other senior management team members. Also, relevant departments should have Standard Operating Procedures ("SOP") in place to ensure the scheme runs smoothly within the company.

4. Can my company have more than one authorised person(s) to work on behalf of the KPIM?

Yes, and it is subject to the discretion of the recruiting insurers and responding insurers. However, the delegation arrangement does not diminish the ultimate responsibility and accountability of the KPIM.

5. Is the Scheme applicable to "staff member agents" employed as life insurance agents by life insurance companies with a job nature that does not involve any policy selling?

At the current stage, the Scheme does not cover those individuals who are to be employed as internal staff members but need to be licensed as individual insurance agents solely because of their job duties. Consideration may be given to extending the scope of the scheme after the accumulation of experience in implementing it. The HKFI will review such circumstance in the next phase of the Scheme.

For the avoidance of doubt, in the first phase of the Scheme:

i) if the individual person is seeking to be appointed as a licensed individual insurance agent by the new recruiting insurer for regulated activities, then he/she should be covered under this reference checking scheme. On the other hand, if the individual person is seeking to be employed as a staff member agent, the reference checking is not applicable to him/her.

ii) if the individual person is first employed as a staff member agent (and therefore not subject to this reference checking before joining the insurer) and subsequently changes his/her duty to act as a licensed individual insurance agent within the same insurer, the insurer can exercise its own discretion not to conduct another round of reference checking for that person, on the basis that information relevant to his/her fitness and properness was available internally and taken into account appropriately with proper documentation endorsed by KPIM (e.g. the person has worked with the insurers over years with good records and has demonstrated his/her fitness and properness during his career with the insurer etc.).

6. What is the development roadmap of the Scheme?

For the time being, the scheme does not cover licensed individual insurance agents who are solely carrying on regulated activities in general insurance business, licensed individual insurance agents who are staff member agents, technical representatives

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(agent) or technical representatives (broker). However, HKFI (together with the IA) will closely monitor the development, and consideration may be given to extending the scope of the scheme after the accumulation of experience in implementing it.

The next development phase is planned to extend the scheme to the life broker sector, where HKFI has maintained active dialogues on the Scheme with the broker associations in Hong Kong.

Please note that the scheme itself does not prohibit the insurers and insurance broker companies from doing additional reference checking if they wish to do so. However, they may be subject to limitations as some recipients may refuse to reply to their extra request.

Recruiting Insurers' Perspectives (Agency Administration Department)

7. What should we do if the prospective agent refuses to submit the completed consent form?

You should explain to the prospective agent the objective of the scheme and that your company will not proceed with his/her application without a completed consent form.

If the prospective agent subsequently withdraws the consent for the reference check, the recruiting insurer should also not appoint the prospective agent as its licensed insurance intermediary. If the recruiting insurer has sent out the reference request form to responding insurer, it should notify the relevant responding insurer that the prospective agent has withdrawn the consent for the reference check as soon as practicable.

8. What should we do if we do not receive any feedback from the responding insurer(s)?

You should report the issue to the KPIM or the authorised person(s) of the KPIM, and approach the responding insurer(s) to ensure that they have received the request and try to understand the reason(s) for not replying to the request. If the responding insurer is uncooperative or unresponsive, you can consider reporting the matter to the IA.

Under the reference check, the responding insurer is generally required to provide reply within 15 calendar days. As stated in the reference checking scheme, if recruiting insurer has already waited for 15 days (i.e. expected response duration by the responding insurer) but received no response from the responding insurer, it may proceed to appoint the prospective agent provided that (a) all the reference checking requests have been outstanding for at least 15 calendar days, (b) the prospective agent has made a self-declaration that there is no adverse record known to him/her; and (c) the recruiting insurer, at the time of making appointment, is not aware of any other information that casts serious doubt on the fitness and properness of the prospective agent to be a licensed individual insurance agent.

For the avoidance of doubt, if the reference checking is satisfactorily completed within 15 days, the appointing insurer can immediately proceed the appointment and submit the license application to the IA in accordance with its internal procedures.

(Effective 1 September 2024)

For reference

9. What should we do if the feedback from the responding insurer is adverse?

You should report the issue to the **KPIM** or the authorised person(s) of the KPIM, and carry out assessments independently and may consider approaching the responding insurer(s) for further clarification or information. However, it is subject to the full discretion of responding insurer(s) to provide further response(s).

To avoid doubt, even if adverse information in relation to a prospective agent has been disclosed by a responding insurer, the recruiting insurer can still exercise its discretion on whether or not to appoint the prospective agent after taking into consideration all relevant matters.

The KPIM or the authorised person(s) of the KPIM should make the final decision on the application:

- If the decision is to accept the application of the prospective agent – proceed the application in accordance with the company's SOP with proper documentation on the assessment and justification.
- If the decision is to refuse to proceed with the application of the prospective agent – communicate the decision to both the prospective agent and his/her recruiter, and offer the prospective agent an opportunity to be heard (i.e. giving the prospective agent the opportunity to make written or oral representations). Under such circumstances, the recruiting insurer should, upon the prospective agent's request, provide him/her with a copy of reference result it obtained from the responding insurer for representation.

Please note that if an insurer appoints a prospective agent with adverse record(s), and that agent subsequently engages in any misconduct, the insurer will not automatically be deemed to be in breach of its obligations based solely on this fact. However, it may be taken into consideration, along with relevant factors (e.g. the timing and reasonableness of the judgement made by the recruiting insurer), by the IA when assessing the overall adequacy of the insurer's recruitment process.

10. Who has the authority to approve the application with adverse feedback from the responding insurer(s)?

Only the KPIM or the authorised person(s) of the KPIM can approve the application with adverse feedback, where the KPIM should hold the ultimate responsibility and accountability for the decision.

11. If the prospective agent has a clean record in the past 7 years but has publicly known adverse records beyond the 7 years checking period, what should I do?

Inform the KPIM or the authorised person(s) of the KPIM and seek direction from him/her. The KPIM should hold the ultimate responsibility and accountability for the decision.

12. If the prospective agent was appointed by more than three life insurers in the last 7

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years, do we have to wait for feedback from all three life insurers before we can proceed with his/her application?

Yes. Recruiting insurers, in general, should wait for the feedback from all three responding insurer(s) before submitting the application of prospective agent to the IA.

However, in case where the recruiting insurer would like to advance the appointment decision before the completion of the reference checking, it may exercise flexibility to make the appointment if:

(a) all the reference checking requests have been sent out and have been outstanding for at least 15 calendar days;
(b) the prospective agent has made a self-declaration that there is no adverse record known to him/her; and
(c) the recruiting insurer, at the time of making appointment, is not aware of any other information that casts serious doubt on the fitness and properness of the prospective agent to be a licensed individual insurance agent.

13. Should we offer an opportunity to be heard to the prospective agent if we subsequently decide not to proceed with his /her application (based on any adverse information disclosed by responding insurer(s))?

Yes. The prospective agent should be given an opportunity to be heard (i.e. giving the prospective agent the opportunity to make written or oral representations). The recruiting insurer should, upon the prospective agent's request, provide him/her with a copy of reference result it obtained from the responding insurer for representation.

14. How long should we keep the records of the prospective agents who we declined the application?

You should follow the data retention policy of your company. However, the recruiting insurer, in general, should not retain the data relating to an unsuccessful application for a period longer than 2 years from the date of the decision not to recruit unless there is a subsisting reason that obliges the recruiting insurer to retain the data for a longer period or the prospective agent has given his/her express consent.

15. Who can handle the information provided by responding insurer(s)?

The personal data of the prospective agent can only be handled between the recruiting insurer, responding insurer(s) or their designated third-party (e.g. a recruiter firm). The personal data of the prospective agent is protected under the "Personal Data (Privacy) Ordinance"

Please note that recruiting insurer generally is not required to submit the reference check record to the IA during the licensing application for the prospective agent, but the recruiting insurer should provide such record upon the request of the IA if necessary.

<u>Responding Insurers' Perspectives (Agency Administration Department)</u>

For reference

16. Should we just respond to conditions stated under "Conduct Related Matters" in question 1 section (a) to (e) of the Reference Information Form?

The crux of the question 1 is whether the prospective agent was previously terminated by you due to any incident affecting his/her fitness and properness, and the conditions stated in (a) – (e) are the typical examples for reference. In other words, if you have any other information that would adversely affect the assessment on the prospective agent's fitness and properness to be a licensed insurance agent, you should consider providing such information to the recruiting insurer.

17. What should we do if there are internal investigations in process where we cannot disclose the information to the recruiting insurer at the time when we are asked to return the Reference Information Form?

Inform the KPIM or the authorised person(s) of the KPIM and seek direction from him/her. The KPIM should hold the ultimate responsibility and accountability for the decision.

To avoid doubt, the responding insurer can decide not to share any information in relation to (or even the existence of) the ongoing investigation with the recruiting insurer based on the following factors:

(a) applicable legal and regulatory requirements;
(b) the status of investigation (e.g. preliminary assessment where fact-finding has not yet been completed, or the prospective agent has yet to be offered an opportunity to explain etc.); and
(c) the risk of jeopardizing an investigation (for example, do the circumstances suggest any risk of the prospective agent tipping off others under investigation if the investigation is not kept confidential; or would disclosure risk the information gathering exercise).

In the circumstance that responding insurer receives a complaint case referred from the IA, regarding the disclosure of such case to the recruiting insurer, please note:

- In respect of Reference Information Form, the information to be disclosed therein focuses on the fact whether the prospective agent was previously terminated or is likely to be terminated due to any incident affecting his/her fitness and properness. If the incident does not fall within this category, the responding insurer is not required to disclose such incident under the reference checking scheme.

- If the case referred by the IA to the insurer is just a complaint case which the IA has not initiated any statutory powers under the Insurance Ordinance to conduct investigation but the insurer has initiated its own internal investigation, the insurer, having considered the factors listed in (a) – (c) above, can disclose its on-going investigation under the reference checking scheme as there is no legal requirement to prohibit such disclosure. Under many circumstances, the agent concerned should be provided with an opportunity to be heard by the insurer when it is conducting internal investigation.

For reference

- On the other hand, if the IA has invoked investigation power under the Insurance Ordinance to conduct investigation and the insurer is aware of this, the responding insurer should pay attention to the disclosure restriction under section 121 of the Insurance Ordinance.

18. In the circumstance where a complaint case is received after the agent has left and the investigation cannot be completed due to lack of response from the ex-agent, can the responding insurer disclose such case to the recruiting insurer under the reference checking scheme?

Even if an agent has departed from the insurer, the insurer may still be able to draw conclusions based on solid objective evidence. For example, in respect of premium misappropriation, evidence such as payment slips to the agent's bank account and relevant WhatsApp conversations provided by the complainant can be taken in consideration. Also, even if the agent has departed, this does not mean that the insurer cannot approach the agent concerned for clarification/assistance. If the agent refuses to cooperate, such attitude can also be taken into account when making the conclusion.

All in all, if the responding insurer has reasonable ground to initiate internal investigation and turns a complaint into an ongoing investigation case, it should consider to share such information with the recruiting insurer based on the factors set out in para. 5.3 of the paper.

Besides, after providing a reply of the Reference Information Form, the responding insurer is provided with the flexibility to provide (or not to provide) an update on the preliminary information for an ongoing investigation previously disclosed in the Reference Information Form. While the Reference Checking Scheme does not impose an obligation on the responding insurer to provide updates regarding ongoing investigations, it is encouraged for the responding insurer to notify the recruiting insurer if there is a substantial difference between the updated information and the preliminary information previously provided. If the responding insurer wishes to provide the conclusion of the on-going investigation, it should first check whether the agent is still appointed by the recruiting insurer and consider the relevance and materiality of such information as to the assessment of the fitness and properness of the agent concerned.

19. Are we liable for any possible negative consequences if we disclose the Reference Checking Information to the recruiting insurer?

If the information provided is true, complete, and accurate according to your best knowledge and efforts, responding insurer(s) should not be liable for any possible negative consequences.

20. Can I sign the Reference Information Form for and on behalf of the company?

Only KPIM or the authorised person(s) of the KPIM can sign the Reference Information Form. The KPIM should hold the ultimate responsibility and accountability.

21. What should we do if we need more than 15 calendar days to complete the Reference Information Form?

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If the responding insurer considers it will not be able to respond within 15 calendar days, it must send an interim reply within the above prescribed timeframe, stating the reason for the expected delay and the expected time for the final reply. Such final reply, however, must be provided within 2 months from the date of reference request.

To ensure the effectiveness of this scheme, the responding insurer should endeavour to adhere to the 15-calendar days timeframe and the alternative should only be used on an exceptional basis with justification which is approved by KPIM or the authorised persons of the KPIM.

22. Can we share rumors /market news with the recruiting insurer?

No. The reference provided should be true, accurate, fair, complete and capable of substantiated (e.g. based on the compliance records maintained by the responding insurer rather than the rumors or comments from the upline managers or agency leaders). In other words, you can only share "FACTS" with solid evidence with the recruiting insurer.

23. Do we have to respond to further requests from the recruiting insurer?

Recruiting insurer may contact you to request for further information and you have the full discretion to decide whether to respond to recruiting insurer's further request. You should communicate with the KPIM or the authorised person(s) of the KPIM for the direction.

Although the responding insurer is not obliged to provide further information, it is encouraged to provide further information to the recruiting insurer for the interest of the entire insurance sector. Also, the recruiting insurer could provide an opportunity to be heard to the prospective agents, who may provide additional information and objective evidence relating to the adverse information before it is in the position to make an informed decision.

For the avoidance of doubt, where adverse information in relation to a prospective agent has been disclosed by a responding insurer, the recruiting insurer can still exercise its discretion to appoint the prospective agent after taking into consideration of all relevant matters such as the nature and timing of the conduct giving rise to the adverse information, the seriousness of the misconduct, the explanation obtained from the prospective agent and the likelihood of the prospective agent repeating the same or similar conduct.

24. Do we have to respond to the recruiting insurer if the prospective agent previously applied but was not appointed by us eventually for whatever reasons?

Under such circumstance, the prospective agent is defined as out-of-scope in the scheme, and the recruiting insurer should not have requested any reference checking from you.

25. If the prospective agent is arrested but not yet convicted or he/she is under legal proceedings now, should we share the information with the recruiting insurer?

Under such circumstance, please consult KPIM or the authorised person(s) of the KPIM for the direction. In general, if the arrest or legal proceeding is publicly available

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information, you should share such information with the recruiting insurer. By contrast, you may decide not to share such information by taking into consideration legal or regulatory requirements or other circumstances, which may restrict disclosure.

26. As the authorised person of the KPIM/KPIM of the responding insurer, what do I need to do before signing the Reference Information Form?

You should ensure that all information provided is true, complete, and accurate according to your best knowledge and efforts. The KPIM should hold the ultimate responsibility and accountability.

Others

27. In case of complaint/dispute related to the Scheme, who can we contact for assistance?

Generally, if the issue is related to agents' conduct or corporate governance of the insurer, please contact IA for assistance.

28. Since the personal information relating to the reference checking is relatively sensitive, it is important for the long term insurers to put in place adequate security measures to ensure that the data is securely kept and transmitted, and prevent unauthorised accessed by any other third parties. Any suggested measures in this regard?

Long term insurers should take into account their own circumstances when implementing security measures as there is no one-size-fits-all approach. Nonetheless, as a matter of general guidance the insurers may consider taking the following measures:

(a) Putting in place proper access control defining who can access to the data, including application of adequate authentication before retrieving data from the system, and limiting access to data and centralized email by designated staff only for a legitimate purpose;
(b) locking the cabinet(s) (in case the information is kept in a physical form); and
(c) encrypting the data when it was sent via designated centralized email and during storage.

Annex 1 – Reference Information Form

29. Regarding Q4 of the Reference Information Form (Annex 1) on providing further supplementary information to the extent responding insurer considers appropriate, what information can be disclosed?

Information relevant to the assessment of the fitness and properness of the agent concerned (e.g. the nature of the allegations/misconduct, the timing of incidents concerned, the impact to the policyholder, the reason for the substantiation and final disciplinary decision etc.) may be disclosed.

For reference

30. Regarding Q5 of the Reference Information Form (Annex 1) on whether the prospective agent has any outstanding / agent debts owed to responding insurer which may raise concern on the financial status of him/her, what qualified a concern on the financial status of the prospective agent?

For example, there are situations where the agent is unable/unlikely to repay the outstanding debts owed to the responding insurer, or unable/unlikely to agree the repayment schedule with the insurer before his resignation/termination, and/or the responding insurer is likely or in the process of filing a bankruptcy order / lawsuit against the agent concerned.

For the avoidance of doubt, the existing agent debt checking of the HKFI would become obsolete after the reference checking scheme becomes effective.

For reference