



Issue 46 (9 March 2023)

Dear members,

Reminders for auditor’s reporting on the Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules

The [Insurance \(Financial and Other Requirements for Licensed Insurance Broker Companies\) Rules \(Cap. 41L\)](#) (“Broker Rules”) came into effect on 23 September 2019. The Broker Rules set out the requirements applicable to licensed insurance broker companies¹ for minimum share capital, net assets, professional indemnity insurance (PII), the keeping of proper books and records and contents for audited financial statements and auditor’s report.

The Broker Rules include transitional arrangements which gradually step-up the new requirements for “specified insurance broker companies”, being broker companies previously registered under the self-regulatory regime and continue to be licensed under the new regulatory regime after 23 September 2019. The step-up takes place in phases until 31 December 2023.

The Institute’s [Practice Note \(PN\) 810.1 \(Revised\), Licensed Insurance Broker Companies – Compliance with the Insurance \(Financial and Other Requirements for Licensed Insurance Broker Companies\) Rules](#) issued in September 2019 aims at providing guidance to auditors when they report under the Broker Rules. PN 810.1 (Revised) was last updated in May 2022 for conforming and consequential amendments as a result of the new and revised quality management standards.

The purpose of this Alert is to highlight matters identified by the Insurance Authority (“IA”) which require an auditor’s attention when he/she reports on the broker companies under the Brokers Rules. This Alert is prepared in consultation with the IA.

Step-up requirements effective from 1 January 2024

On 30 November 2022, the IA issued a [circular](#) to draw broker companies’ attention to issues observed during their supervision work and to assist broker companies to strengthen their controls and governance. [Annex 1](#) of the circular contains a comprehensive report on common issues requiring improvements and sharing of good

¹ Under section 2 of the Insurance Ordinance, a licensed insurance broker company means a company which is granted a licence under section 64ZA to carry on: (a) regulated activities specified in section 1(a) of Part 1 of Schedule 1A to the Ordinance in one or more lines of business, as an agent of any policy holder or potential policy holder; and (b) regulated activities specified in section 1(b), (c) and (d) of Part 1 of Schedule 1A to the Ordinance in one or more lines of business.

practices. The circular also reminds broker companies to make advance arrangements to meet the phasing-in requirements becoming effective from 1 January 2024 on share capital, net assets and PII.

Auditors performing audit engagements on broker companies' financial statements and reporting on their compliance with the Broker Rules should consider their compliance with the phasing-in requirements as appropriate which are summarized below:

Share Capital and Net Assets

- By 31 December 2023, the paid-up share capital and net assets of specified insurance broker companies must not be less than HK\$500,000.

Professional insurance indemnity

- From 1 January 2024, the deductible amount under a PII policy maintained by a specified insurance broker company must not be more than 50% of the company's net assets as at the end of its financial year immediately before the commencement date of the policy period under the policy.
- Specifically, a specified insurance broker company should comply with the phasing-in PII requirements when purchasing a PII policy with a policy period ending on or after 1 January 2024. For example, for a one-year PII policy with the policy period commencing after 1 January 2023 (e.g., 1 June 2023) and ending on or after 1 January 2024 (e.g., 31 May 2024), the new PII phasing-in requirements would apply to the policy period from 1 January 2024.

Details of the phasing-in requirements of the Broker Rules are set out in [Annex 2](#) of the IA's circular.

Determination of the limit of indemnity of a PII

Recently, the IA received enquiries as to whether brokerage income from a licensed insurance broker company's Mandatory Provident Fund ("MPF") business should be included in the gross insurance brokerage income in the determination of the PII under the Broker Rules.

Section 5(1) of the Broker Rules requires a licensed insurance broker company to maintain a PII policy that provides coverage for claims made against the company for liabilities arising from breaches of duty in the course of carrying on its regulated activities.

Section 5(1) and (2) of the Broker Rules also specify that the PII policy must have the following limit of indemnity for any one claim and in any one policy period of 12 months:

- (a) Must not be less than the greater of:
 - (i) 2 times the aggregate amount of the licensed insurance broker company's insurance brokerage income in the 12 consecutive months immediately before the commencement date of the policy period under its PII policy, up to a maximum of HK\$75,000,000; or

(ii) HK\$3,000,000.

- (b) In relation to a licensed insurance broker company which is in its first 12 months of operation as a licensed insurance broker company, the limit of indemnity must not be less than HK\$3,000,000.

According to section 2 of the Broker Rules, insurance brokerage income, in relation to a licensed insurance broker company, means the gross income derived from the business of carrying on regulated activities by the company.

According to Part 1 of Schedule 1A to the [Insurance Ordinance](#) (“Ordinance”), a regulated activity is an act of any of the following specified for the purposes of section 3A(a) of the Ordinance—

- (a) the act of negotiating or arranging a contract of insurance;
- (b) the act of inviting or inducing, or attempting to invite or induce, a person to enter into a contract of insurance;
- (c) the act of inviting or inducing, or attempting to invite or induce, a person to make a material decision;
- (d) the act of giving regulated advice.

In view of the above, the IA clarifies that brokerage income from the MPF business generated by a licensed insurance broker company would not be regarded as part of its insurance brokerage income.

Sincere regards,

Standard Setting Department
Hong Kong Institute of Certified Public Accountants
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