

30 November 2023

By Email

To: Responsible Officers of all Licensed Insurance Broker Companies

Dear Sirs,

Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules (Cap. 41L) Savings and Transitional Arrangements

The Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules (Cap. 41L) (“Broker Rules”) set out requirements applicable to licensed insurance broker companies for minimum share capital, net assets, professional indemnity insurance, the keeping of proper books and records, and contents for audited financial statements and auditor’s report.

The Broker Rules came into force on 23 September 2019. They have incorporated a 4-year plus transitional arrangement which, over the period from 23 September 2019 to 31 December 2023, has gradually stepped-up the new requirements in the Broker Rules as they apply to “specified broker insurance companies”¹, being licensed insurance broker companies which were previously registered under the self-regulatory regime (and which continue to be licensed under the new regulatory regime).

The first and second stages of this stepping up took place on 31 December 2021 and 31 December 2022, respectively. The final stage is due to take place on **31 December 2023**. We take this opportunity to remind specified insurance broker companies of this final stage and of the requirements under the Broker Rules which they must comply with as of the dates mentioned below:

A. Requirements for Share Capital and Net Assets

As from 1 January 2024, the amount of paid-up share capital and net assets which a specified insurance broker company must maintain at all times increases from HK\$300,000 to HK\$500,000 (pursuant to rules 3 and 4(1) of the Broker Rules).

To comply with these requirements from 1 January 2024, specified insurance broker companies (which have not already done so) must increase their paid-up share capital and net assets to an amount of not less than **HK\$500,000 by 31 December 2023**.

¹ Specified insurance broker company means a company which was immediately before the commencement date (i.e. 23 September 2019) registered with an approved broker body as a member and regarded as having been granted an insurance broker company licence under section 66 of Schedule 11 to the Insurance Ordinance on the commencement date.

Please note these are separate requirements. A licensed insurance broker company must have paid-up share capital of not less than HK\$500,000. A licensed insurance broker company must also maintain minimum net assets of not less than HK\$500,000. If a licensed insurance broker company has minimum net assets of more than HK\$500,000, but has paid-up share capital of less than HK\$500,000, it fails to comply with the paid up share capital requirement in the Broker Rules.

B. Requirements for Professional Indemnity Insurance (“PII”)

Deductible amount

As from 1 January 2024, the deductible amount under the PII policy maintained by a licensed 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 (pursuant to rule 5(5) of the Broker Rules).

Accordingly, each specified insurance broker company should ensure that if its PII policy with a policy period **commencing on or after 1 January 2024**, includes a deductible, then that deductible 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.

In practical terms a licensed insurance broker company’s audited financial statements for the year ending 31 December 2023 are not going to be available at the time it renews its PII policy with a policy period commencing on 1 January 2024. In these circumstances, as mentioned in the answer to Question 3 of the IA’s Frequently Asked Questions on the Broker Rules², the licensed insurance broker company may rely on its unaudited amount of net assets in its latest set of management accounts at the time it seeks renewal (appropriately adjusted where required by the applicable accounting standards) as a reference for the purposes of determining the maximum deductible it can have under its PII for the period commencing 1 January 2024. The broker company should, however, be alert to any subsequent downward adjustments to the amount of net assets up to 31 December 2023. If the broker company becomes aware that, as a result of such decrease, the deductible in its PII Policy does not comply with the deductible requirements in the Broker Rules, it should take immediate steps to rectify the situation, for example, by arranging an endorsement to the policy to adjust the deductible accordingly.

Limit of indemnity

The PII policy must have a limit of indemnity not less than the greater of the following—

- (a) 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 \$75,000,000; or
- (b) \$3,000,000.

(pursuant to rule 5(2) of the Broker Rules)

In other words, the minimum limit of indemnity must be determined by reference to **the aggregate amount of your company’s insurance brokerage income in the 12 consecutive months immediately before the commencement date of the policy period**. This means that during the renewal process for your PII (and up to the date of commencement of the new policy period), you need to ensure that the limit of indemnity under the new PII is sufficient based on

² https://www.ia.org.hk/en/supervision/reg_ins_intermediaries/files/FAQ_Broker_Rules_Enclosure.pdf

your most up-to-date brokerage income figures.

We would also stress, however, that minimum PII requirements are only minimum specifications. It is open to (and indeed good practice for) broker companies to have in place coverage which exceeds these minimum standards.

C. Requirements for Audited Financial Statements for each financial year beginning on or after 1 January 2021 onwards

According to rule 8(2) of the Broker Rules, the financial statements provided by a licensed insurance broker company must include the company's:

- (a) insurance brokerage income for the financial year distinguishing between general business and long term business;
- (b) aggregate balances of cash held in its client accounts as at the end of the financial year; and
- (c) insurance premiums payable as at the end of the financial year.

Licensed insurance broker companies have been required to comply with rule 8(2) of the Broker Rules ("disclosure requirements"), **for each financial year beginning on or after 1 January 2021 onwards.**

From our review of the financial statements submitted for the first financial year where these disclosure requirements were effective (i.e., the financial year ended 31 December 2021), more than half specified insurance broker companies failed to comply with these requirements.

To increase awareness of these new requirements, the Insurance Authority has issued circulars through the Hong Kong Institute of Certified Public Accountants on 27 July 2022 and 11 August 2022. Various trainings have also been delivered to the industry and auditors. As a result of these efforts, the non-compliance rate in relation to these disclosure requirements for the financial year ended 31 December 2022 has effectively reduced by 42%.

This is good progress, but there is still room for improvement as we still observed non-compliances by a number of licensed insurance broker companies with these disclosure requirements, despite the efforts made to bring the new requirements to their attention. The most common continued non-compliance was the failure to disclose in the audited financial statements information in relation to the client account balance and the insurance premium payables as at the end of the financial year.

We reiterate the importance of complying with all the disclosure requirements in rule 8(2) of the Broker Rules. The audited financial statements, in the auditor's choice of words and expressions, must provide sufficient information to satisfy the Insurance Authority that the broker company has complied with the Broker Rules. Hence, the report must indicate information on the items in rule 8(2) of the Broker Rules, **even if the relevant figure for any particular item is zero.**

Since the majority of licensed insurance broker companies are now conversant and compliant with these disclosure requirements, in order to be fair to these compliant companies, the Insurance Authority will be stepping up disciplinary action against those companies who do not comply with these requirements going forward.

D. Consequence of Non-compliance with the Broker Rules

Accordingly, 31 December 2023 marks the end of 4-year plus transition period under the Broker Rules. From 1 January 2024 onwards, in terms of the requirements under the Broker Rules, the playing field is finally levelled for all licensed insurance broker companies in Hong Kong.

We thank those licensed insurance broker companies (and their responsible officers) who have brought themselves into line with the new requirements during the transitional period for their efforts. In doing so, they have demonstrated their continuing fitness and properness, underpinning the insurance market with trust.

We reiterate that the requirements in the Broker Rules are reinforced by the deterrent of disciplinary action under section 81 of the IO if breached. Disciplinary action which may be taken includes reprimand, pecuniary fine, suspension of licence or revocation of licence. We always aim to be fair in our disciplinary approach, recognizing the leeway needed for adaption to new requirements, but also recognizing the need to be fair to those compliant licensed insurance brokers companies by ensuring those which are non-compliant are appropriately disciplined. This same approach will be adopted going forward.

Should you have any questions, please contact us via brokers@ia.org.hk.

Yours faithfully,

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Head of Market Conduct Division
General Counsel
Insurance Authority

c.c. Professional Insurance Brokers Association
The Hong Kong Confederation of Insurance Brokers