

G.N. 1972

INSURANCE ORDINANCE (Chapter 41)

Pursuant to section 133(1) of the Insurance Ordinance (Chapter 41), the Insurance Authority publishes the revised Guideline on 'Fit and Proper' Criteria in relation to Authorized Insurers under the Insurance Ordinance (Chapter 41) (GL4). The revised GL4 shall take effect from the day on which Part 2 of the Insurance (Amendment) Ordinance 2023 comes into operation.

12 April 2024

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**GUIDELINE ON
“FIT AND PROPER” CRITERIA IN RELATION TO
AUTHORIZED INSURERS UNDER THE INSURANCE
ORDINANCE (CAP. 41)**

Contents

Page

1.	Introduction	1
2.	Approval or Notification Requirements for Appointments of Certain Positions	2
3.	Factors for Determining “Fit and Proper” Persons	7
4.	Criteria for Individual Person	9
5.	Criteria for Body Corporate	16
6.	Effective Date.....	19

1. Introduction

- 1.1 This Guideline is issued pursuant to section 133 of the Insurance Ordinance (Cap. 41) (“the Ordinance”) taking into account the Insurance Core Principles, Standards, Guidance and Assessment Methodology (“ICP”) promulgated by the International Association of Insurance Supervisors. Special reference is made to ICP 5 which stipulates that the supervisor expects board members, senior management, key persons in control functions and significant owners of an insurer to be and remain suitable to fulfil their respective roles.
- 1.2 It sets out the minimum standard of suitability requirements that are applicable to individuals or body corporates becoming or being controllers, shareholder controllers, directors, key persons in control functions, appointed actuaries or certifying actuaries of an authorized insurer (“the relevant persons”) and the general guiding principles of the Insurance Authority (“IA”) in assessing the suitability of such persons in fulfilling their roles in an insurer.
- 1.3 The IA expects the relevant persons to be competent, honest, reputable, reliable, to have integrity and to be financially sound and that he is willing and capable of fulfilling his obligations with regard to his roles in relation to the authorized insurer. The onus is on the relevant person to establish he is a fit and proper person.
- 1.4 This Guideline should be read in conjunction with the relevant provisions of the Ordinance, other relevant Ordinances, and any relevant rule, regulation, code, guideline, circular and any other regulatory instrument made or issued under the Ordinance or by the IA from time to time. However, it should not be interpreted in a way that would override the provision of any law. This Guideline is to provide general guidance to the relevant persons and is not intended to be exhaustive.
- 1.5 This Guideline shall replace the Guideline on “Fit and Proper” Criteria under the Insurance Ordinance (Cap. 41) issued by the IA in November 2017.

- 1.6 Unless otherwise specified, words and expressions used in this Guideline shall have the same meanings as given to them in the Ordinance. For clarity, HK insurer includes an authorized insurer that is incorporated in or has re-domiciled to Hong Kong.
- 1.7 Designated Insurance Holding Companies should refer to Module B of the Guideline on Group Supervision (“GL32”) for the respective “fit and proper” criteria of chief executives, shareholder controllers, directors and key person in control functions. Special Purpose Insurers should refer to the Guideline on Application for Authorization to Carry on Special Purpose Business (“GL33”) and relevant paragraphs of this Guideline as specified in GL33 on the fitness and propriety requirements of administrators and directors.
- 1.8 This Guideline does not constitute legal advice. You should seek professional advice if you have any question relating to the application or interpretation of the relevant provisions of the Ordinance.
- 1.9 The IA may from time to time amend the whole or any part of this Guideline.

2. Approval or Notification Requirements for Appointments of Certain Positions

- 2.1 Under section 8 of the Ordinance, a company intending to carry on any class of insurance business in or from Hong Kong may apply to the IA for authorization. Section 8(2) of the Ordinance provides that the IA shall not authorize a company if it appears to the IA that any person who is a **director** or **controller defined under section 9** of the company is not a *fit and proper* person to hold such position. For the purpose of this Guideline –
- (a) a reference to a “controller” herein means a controller defined under section 9 (other than section 9(1)(a)(iii)(B) of the Ordinance) or 13A of the Ordinance as the case may be; and
 - (b) a reference to a “shareholder controller” herein means a

shareholder controller in relation to an authorized insurer defined under section 2(1) of the Ordinance, or a controller defined under section 9(1)(a)(iii)(B) of the Ordinance as the case may be.

- 2.2 After obtaining authorization, an authorized insurer is required to comply with sections 13A, 13AC, 13AE, 13B, 13BB, 14, 15AAAB and 15B of the Ordinance in respect of any appointments of, or changes in, its controllers, shareholder controllers, directors, key persons in control functions, appointed actuary (if the insurer carries on long term business) and certifying actuary (if the insurer carries on general business). Persons to be appointed or have been appointed, as controllers, shareholder controllers, directors, key persons in control functions, appointed actuary or certifying actuary of the insurer are required to be fit and proper persons to be so appointed and to continue the appointment.
- 2.3 An HK insurer and a designated insurer are subject to the same approval requirements for appointment of persons mentioned in paragraph 2.2. A summary on the approval requirements for appointments of controllers, shareholder controllers, directors, key persons in control functions, appointed actuaries and certifying actuaries and the relevant notification requirements for an HK insurer, a designated insurer and a non-HK insurer (other than a designated insurer) under the Ordinance can be found on the IA's website.

Controllers under Section 13A

- 2.4 Section 13A stipulates that an authorized insurer must obtain the IA's prior approval for the appointment of a managing director or a chief executive of the insurer. Where the insurer is a non-HK insurer (other than a designated insurer), it is required to seek the IA's prior approval of any appointment of a managing director in respect of so much of the insurer's insurance business as is carried on within Hong Kong or a chief executive who is responsible for the conduct of the whole of the insurance business carried on by the insurer within Hong Kong, not being an individual who (a) is also responsible for the conduct of insurance business carried on by the insurer elsewhere; and (b) has a

subordinate who is responsible for the whole of the insurance business carried on by the insurer within Hong Kong. By virtue of section 50B, the authorized representative of Lloyd's is also subject to the prior approval requirement under section 13A.

Directors

- 2.5 Section 13AC provides that an HK insurer or a designated insurer must obtain the IA's prior approval for the appointment of a director. For a non-HK insurer (other than a designated insurer), it is required to notify the IA of any changes to its directors in accordance with section 14(3) of the Ordinance.

Key Persons in Control Functions

- 2.6 Section 13AE provides that an authorized insurer must obtain the IA's prior approval for the appointment of a key person in control functions. For an HK insurer or a designated insurer, a key person in control functions means an individual responsible for the performance of one or more of the control functions for the insurer. For a non-HK insurer (other than a designated insurer), a key person in control functions means an individual responsible for the performance of one or more of the control functions for the insurer in respect of so much of its insurance business as is carried on within Hong Kong.
- 2.7 Pursuant to section 13AE(12), a control function is defined as any of the prescribed functions that is likely to enable the individual responsible for the performance of the function to exercise a significant influence on the business carried on by the authorized insurer. The prescribed functions include risk management function, financial control function, compliance function, internal audit function, actuarial function and intermediary management function. The Financial Secretary may also, by notice published in the Gazette, specify a function to be a control function.

Shareholder Controllers

- 2.8 Section 13B provides that a person must obtain the IA's approval

before that person becomes a majority shareholder controller or a minority shareholder controller of an HK insurer or a designated insurer. Where a minority shareholder controller of an HK insurer or a designated insurer intends to become a majority shareholder controller of the same insurer, the person must obtain the IA's prior approval under section 13B. When a majority shareholder controller of an HK insurer or a designated insurer becomes a minority shareholder controller of the same insurer, the person is required under section 13BB to notify the IA of the change within one month after the change takes place.

- 2.9 Where there are any changes in controllers defined under section 9(1)(a)(iii)(B) of the Ordinance (other than where section 13B applies), the authorized insurer must notify the IA of the changes in accordance with section 14(3).

Other Controllers

- 2.10 Where there are any changes in the controllers (other than those situations described above), the authorized insurer must notify the IA of the changes in accordance with section 14(3).

Appointed Actuaries

- 2.11 Section 15AAAB(1) requires that if an authorized insurer carries on long term business in or from Hong Kong, it must obtain the IA's prior approval for the appointment of an actuary under section 15AAA(1)(a) or (b). For the purpose of this Guideline, an actuary appointed under section 15AAA(1)(a) or (b) of the Ordinance is referred to herein as appointed actuary.

Certifying Actuaries

- 2.12 Section 15AAAB(1) requires that if an authorized insurer carries on general business in or from Hong Kong, it must obtain the IA's prior approval for the appointment of an actuary under section 15AAA(1)(c) or (d). For the purpose of this Guideline, an actuary appointed under section 15AAA(1)(c) or (d) of the Ordinance is referred to herein as

certifying actuary.

Particulars of Controllers, Shareholder Controllers, Directors, Key Persons in Control Functions, Appointed Actuaries and Certifying Actuaries

- 2.13 A person who is proposed to be appointed or has been appointed as a controller, shareholder controller, director, key person in control functions, appointed actuary or certifying actuary of an authorized insurer, is required to provide his particulars in the relevant specified form(s) to the IA for consideration. Where there is a change of certain type of particulars of such persons, the insurer is required to notify the IA under section 14(2) of the Ordinance. The relevant specified forms for seeking approval or filing notification of any changes of or in the particulars of such persons can be found on the IA's website.

The IA's Powers of Approval, Revocation of Approval, or Objection in respect of Proposed Appointments or Appointments

- 2.14 Under sections 13A, 13AC, 13AE, 13B and 15AAAB of the Ordinance, the IA must not approve the appointment of a person as a controller (as defined under section 13A(12)), shareholder controller, director, key person in control functions, appointed actuary or certifying actuary of an authorized insurer respectively unless it is satisfied that the person is a fit and proper person to be so appointed. Pursuant to sections 13AF and 15AA, the IA may impose any conditions that it considers appropriate on the approval when granting and/or after it has granted the approval.
- 2.15 Under sections 13A, 13AC, 13AE, 13B and 15AAAB of the Ordinance, the IA has the power to reject an application for approval to become a controller (as defined under section 13A(12)), shareholder controller, director, key person in control functions, appointed actuary or certifying actuary of an authorized insurer accordingly if it appears to the IA that the person is not fit and proper to hold that position.
- 2.16 Under sections 13BA and 14(4) of the Ordinance, the IA has the power to object respectively to (i) a person being a shareholder controller to

whom section 13B applies; or (ii) the appointment of the person as a controller (other than a controller to whom section 13A applies) or director (other than a director to whom section 13AC applies), or a person being a shareholder controller (other than a controller to whom section 13B applies) of an authorized insurer if it appears to the IA that the person is not, or is no longer, fit and proper to hold that position.

2.17 With regard to controller (as defined under section 13A(12)), director (to whom section 13AC applies), key person in control functions, appointed actuary and certifying actuary of an authorized insurer, where it appears to the IA that the person holding such position is no longer a fit and proper person to be so appointed, the IA may revoke the approval of the existing appointment pursuant to section 13A(7), 13AC(7), 13AE(7) or 15AABA(1) of the Ordinance accordingly.

2.18 Any person aggrieved by or in respect of whom the decision of the IA is made in refusing to approve, revoking the approval of or objecting to the proposed appointment or appointment already made, as appropriate, may, within 21 days after the notice informing the person of the decision has been served, apply to the Insurance Appeals Tribunal for a review of the decision. If a party to a review is dissatisfied with the Tribunal's determination of the review, the party may appeal to the Court of Appeal against the determination as provided for under section 112 of the Ordinance.

3. Factors for Determining "Fit and Proper" Persons

3.1 Pursuant to section 14A of the Ordinance, the IA must have regard to the following matters in determining whether a person is a fit and proper person for the purposes of sections 8, 8A, 13A, 13AC, 13AE, 13B, 13BA, 14, 15AAAB and 15AABA:

- (a) the education or other qualifications or experience of the person;
- (b) the person's ability to act competently, honestly and fairly;
- (c) the reputation, character, reliability and integrity of the person;

- (d) the person's financial status or solvency;
- (e) whether any disciplinary action has been taken against the person by:
 - (i) the Monetary Authority;
 - (ii) the Securities and Futures Commission;
 - (iii) the Mandatory Provident Fund Schemes Authority; or
 - (iv) any other authority or regulatory organization, whether in Hong Kong or elsewhere, which, in the IA's opinion, performs a function similar to those of the IA;
- (f) if the person is a body corporate in a group of companies, any information in the possession of the IA, whether provided by the person or not, relating to:
 - (i) any other body corporate in the group of companies; or
 - (ii) any substantial shareholder or officer of the person or of any body corporate referred to in subparagraph (i);
- (g) the state of affairs of insurance business and any other business which the person carries on or proposes to carry on;
- (h) if the person is a body corporate, its internal control and corporate governance; and
- (i) any other matter that the IA considers relevant in making the determination.

3.2 Without limiting the generality of the statements referred to in paragraph 3.1 above, the following paragraphs set out the events and matters that are likely to give rise to concerns about the fitness and propriety of a person to be appointed or who has been appointed as a controller, shareholder controller, director, key person in control functions, appointed actuary or certifying actuary of an authorized insurer. However, failure to comply with an individual element will not necessarily result in the IA not being satisfied that a person is fit and proper. The IA will look into the substance of the requirements and materiality of any failure to meet them.

4. Criteria for Individual Person

- 4.1 The controller, shareholder controller, director, key person in control functions, appointed actuary and certifying actuary are holders of important positions in an authorized insurer. They should possess competence and integrity. Competence is demonstrated generally through the level of an individual's professional and/or formal qualifications and knowledge, skills and pertinent experience within the insurance and financial industries or other related businesses, having regard to the person's previous and prospective roles. Competence also includes having the appropriate level of commitment to perform the role. Integrity is demonstrated generally through character, personal behaviour and business conduct.

Competence Requirements - Qualifications and Working Experience

- 4.2 The requirements on qualifications and experience for controllers, shareholder controllers, directors, key persons in control functions, appointed actuary and certifying actuary may vary depending on the degree of their influence and their respective job duties and roles in the authorized insurer's business. It is generally recognized that an individual considered competent for a particular position within an insurer may not be considered competent for another position with different responsibilities or for a similar position within another insurer.

Controllers under Section 13A

- 4.3 In general, the IA expects that a controller (as defined in section 13A(12)) possesses the relevant qualifications and/or experience which would enable him to discharge his functions properly (i.e. whether he is professionally competent). For example, he may be considered as professionally competent:
- (a) if he possesses professional qualifications in insurance, accounting, actuarial science, finance, risk management or law, and has more than 5 years' experience in an insurer or relevant institution occupying a management position; or

- (b) if he does not possess the relevant qualification as set out in (a) above, he has more than 8 years' experience in an insurer or relevant institution occupying a management position.

Shareholder Controllers

- 4.4 Shareholder controllers can exert significant influence on the business strategy and conduct of business of an authorized insurer. Therefore, the IA will consider the likely or actual level of influence and control over the insurer by a person holding his capacity as a shareholder controller. Generally, the greater the influence on the insurer by the shareholder controller, the higher the level of standard will be applied by the IA in assessing his fitness and propriety.
- 4.5 Without limiting the generality of the statutory requirements under section 14A of the Ordinance, the IA expects a shareholder controller to have the knowledge and experience, competence, soundness of judgement and diligence required for holding an authorized insurer. A shareholder controller should also possess integrity and demonstrate commitment to the development of the insurer in which he has control.
- 4.6 A prospective majority (and, if appropriate, minority) shareholder controller should submit clear and detailed strategic objectives and business plans of the authorized insurer concerned and demonstrate that such objectives and plans are realistic, viable, and conducive to the long-term stability and healthy and sustainable development of the insurer. In particular, the IA expects the majority shareholder controller to demonstrate its long-term commitment to the insurer and that it has the willingness and financial capacity to maintain the financial soundness of the insurer including to contribute additional capital to support the operations of the insurer, as and when required.

Directors

- 4.7 The Board of Directors ("Board") plays an important role in the corporate governance of authorized insurers. In assessing the competence of individual directors, the IA would give due regard to

the respective duties allocated to each individual director to ensure an appropriate diversity of expertise and the effective functioning of the Board as a whole. The IA would give due considerations if a director has sufficient skills, knowledge, experience and soundness of judgment properly to undertake and discharge his roles and responsibilities.

Key Persons in Control Functions

- 4.8 The IA expects that a key person in control functions possesses the relevant qualification and/or experience which would enable him to discharge his functions properly. To demonstrate competency in his appointment, he should have more than 5 years' experience in risk management, financial control, compliance, internal audit, actuarial work, intermediary management or relevant discipline (as the case may be).

Appointed Actuary and Certifying Actuary

Appointed Actuary

- 4.9 The appointed actuary is required to possess the following qualifications as prescribed under the Insurance (Actuaries' Qualifications) Regulation (Cap. 41A) or qualification acceptable to the IA as being comparable to the following:
- (a) any of the following qualifications:
 - (i) Fellow of the Institute and Faculty of Actuaries of the United Kingdom;
 - (ii) Fellow of The Institute of Actuaries of Australia; or
 - (iii) Fellow of the Society of Actuaries of the United States of America, and
 - (b) Fellow Member of The Actuarial Society of Hong Kong.
- 4.10 Note that where relevant, the above qualifications should be in the field relevant to long term business or otherwise acceptable to the IA.

4.11 The appointed actuary is required to possess appropriate working experience in long term business in the last 5 years, and be familiar with the insurance market in Hong Kong, particularly the applicable actuarial standards, legal, judicial and social trends in Hong Kong that may impact upon the valuation of assets and liabilities pertaining to long term business.

Certifying Actuary

4.12 The certifying actuary is required to possess the following qualifications as prescribed under the Insurance (Actuaries' Qualifications) Regulation (Cap. 41A) or qualification acceptable to the IA as being comparable to the following:

- (a) any of the following qualifications:
 - (i) Fellow of the Institute and Faculty of Actuaries of the United Kingdom;
 - (ii) Fellow of The Institute of Actuaries of Australia;
 - (iii) Fellow of the Society of Actuaries of the United States of America; or
 - (iv) Fellow of the Casualty Actuarial Society of the United States of America, and
- (b) Fellow Member of The Actuarial Society of Hong Kong.

4.13 Note that where relevant, the above qualifications should be in the field relevant to general business or otherwise acceptable to the IA.

4.14 The certifying actuary is required to possess appropriate working experience in general business in the last 5 years, and be familiar with the insurance market in Hong Kong, particularly the applicable actuarial standards, legal, judicial and social trends in Hong Kong that may impact upon the valuation of insurance liabilities pertaining to general business.

Competence Requirements - Professional Standards

4.15 In considering the competence and capability of an individual in being

a controller, shareholder controller, director, key person in control functions, appointed actuary or certifying actuary, the IA will also take into account whether the individual concerned has, in Hong Kong or elsewhere, failed to uphold any professional and ethical standards, of a professional body to which he belongs or belonged. Depending on the nature and seriousness of the non-compliance of the standards and the passage of time since the non-compliance issue, the IA would consider whether it affects the fitness and propriety of the individual concerned.

Assessment of Reputation, Character, Reliability, Honesty, Integrity and Ability to Act Fairly

4.16 In the case of an individual, the following factors are relevant to the assessment of reputation, character, reliability, honesty, integrity and ability to act fairly in respect of a controller, shareholder controller, director, key person in control functions, appointed actuary or certifying actuary, namely, whether the individual concerned:

- (a) has been found by a court or other competent authority in Hong Kong or elsewhere for fraud, dishonesty or misfeasance;
- (b) has been disqualified by a court of competent jurisdiction from being a director of a body corporate;
- (c) has been convicted of a criminal offence by any court, including a military tribunal or is the subject of unresolved criminal charges, in Hong Kong or elsewhere;
- (d) has contravened or abetted another person in breach of any laws, regulations, or codes of conduct in Hong Kong or elsewhere in relation to business previously or is being carried on;
- (e) has been refused or restricted from the right to carry on any trade, business or profession by any regulatory authority in Hong Kong or elsewhere;
- (f) has been censured, disciplined or publicly criticized by any

regulatory authority in Hong Kong or elsewhere;

- (g) has been the subject of an investigation or disciplinary proceedings by any regulatory authority or law enforcement agency in Hong Kong or elsewhere;
- (h) has been the subject of a substantiated complaint made reasonably and in good faith, relating to activities that are regulated by any regulatory authority in Hong Kong or elsewhere;
- (i) has been untruthful to, has provided false or misleading information to, or has been subject to adverse comment from, any regulatory authority in Hong Kong or elsewhere;
- (j) has, in Hong Kong or elsewhere, been censured, disciplined, publicly criticized or been the subject of an investigation or disciplinary proceedings by a professional body to which he belongs or belonged, or has been refused entry to any profession or occupation;
- (k) has been dismissed or requested to resign from any office, employment or a fiduciary appointment or similar position whether in Hong Kong or elsewhere for misconduct, negligence, incompetence or mismanagement;
- (l) was a controller, shareholder controller, director, key person in control functions, appointed actuary or certifying actuary of a body corporate or an insurer, in Hong Kong or elsewhere, which has been compulsorily wound up or made any compromise or arrangement with its creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either whilst the individual concerned held any of the above positions or within one year after the individual ceased to hold such position;
- (m) has, in connection with the formation or management of a body corporate or an insurer, been adjudged by a court or other

competent authority in Hong Kong or elsewhere civilly liable for any fraud, misfeasance or other misconduct by the individual concerned towards such a body or an insurer or towards any members thereof;

- (n) has entered into a voluntary arrangement with creditors or been adjudicated bankrupt by a court, or is currently subject to bankruptcy proceedings, in Hong Kong or elsewhere;
- (o) has failed to satisfy any judgment debt under an order of a court in Hong Kong or elsewhere; or
- (p) was or has been, in connection with the management of a body corporate or an insurer in Hong Kong or elsewhere, a controller, shareholder controller, director, key person in control functions, appointed actuary or certifying actuary of the body corporate or insurer, which,
 - (i) with the consent or connivance of, or because of the neglect or omission by the individual concerned, failed to comply with any legal or regulatory requirements or any regulatory instruments made thereunder;
 - (ii) was or has been convicted of a criminal offence by any court, or is the subject of unresolved criminal charges, in Hong Kong or elsewhere; or
 - (iii) was or has been adjudicated by any court or other competent authority civilly liable for any fraud, misfeasance or misconduct, in Hong Kong or elsewhere.

4.17 In respect of the events listed in paragraph 4.16 above, the IA, in considering whether the individual is fit and proper, will have regard to, inter alia, the relevance of the event, the passage of time since the event, the nature and seriousness of the event, and the degree of his involvement in the event. If necessary, the IA may require further information regarding the event from the individual, the insurer or the relevant party concerned.

4.18 To ensure compliance with this Guideline, an authorized insurer

should maintain high internal standards of ethics and integrity, promote sound corporate governance and require the aforesaid position holders to have pertinent experience and maintain a sufficient degree of knowledge and decision-making ability.

Independence and Conflicts of Interests

4.19 For the prudent and effective management of an authorized insurer, it should have sufficient safeguards in place to prevent undue influence over its controllers, directors, key persons in control functions, appointed actuary and certifying actuary with respect to the performance of their duties and responsibilities. In particular, the IA considers that:

- (a) the Chairman of the Board should not be the Chief Executive;
- (b) the appointed actuary should not be the Chairman of the Board or the Chief Executive; and
- (c) the certifying actuary should not be the Chairman of the Board or the Chief Executive.

4.20 If the same person assumes more than one role in relation to an authorized insurer (regardless of whether the other role(s) is a controller, director, key person in control function or actuary of an insurer), there should not be conflicts of interest between these positions which may otherwise impair his ability to discharge his duties in relation to any activity regulated by the IA.

5. Criteria for Body Corporate

5.1 In the case of a body corporate, the following factors are relevant to the assessment of fitness and propriety of the body corporate, namely, whether it:

- (a) has financial integrity, e.g. whether the accounts of the body corporate displays a financially sound and stable position;

- (b) is subject to receivership, administration, liquidation or other similar proceedings;
- (c) has entered into a scheme of arrangement with its creditors or failed to satisfy any judgment debt under an order of a court in Hong Kong or elsewhere;
- (d) has been refused or restricted from the right to carry on any trade, business or profession by any regulatory authority in Hong Kong or elsewhere;
- (e) has been censured, disciplined or publicly criticized by any regulatory authority in Hong Kong or elsewhere;
- (f) has been the subject of an investigation or disciplinary proceedings by any regulatory authority or law enforcement agency in Hong Kong or elsewhere;
- (g) was a controller, shareholder controller or director of a body corporate or an insurer, in Hong Kong or elsewhere, which has been compulsorily wound up or made any compromise or arrangement with its creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either whilst the body corporate concerned was a controller, shareholder controller or director or within one year after the body corporate concerned ceased to be such a controller, shareholder controller or director;
- (h) was or has been, in connection with the management of a body corporate or an insurer in Hong Kong or elsewhere, a controller, shareholder controller or director of a body corporate or insurer, which,
 - (i) with the consent or connivance of, or because of the neglect or omission by, the body corporate concerned, failed to comply with any legal or regulatory requirements, or any regulatory instruments made thereunder;
 - (ii) was or has been convicted of a criminal offence by any court, or is the subject of unresolved criminal charges, in

- Hong Kong or elsewhere; or
- (iii) was or has been adjudicated by any court or other competent authority civilly liable for any fraud, misfeasance or misconduct, in Hong Kong or elsewhere;
 - (i) has a controller, shareholder controller, director or key person in control functions (if applicable) who fails to meet the requirements set out above for individuals (other than those relating to qualifications and experience), or the requirements set out herein for body corporate, as applicable;
 - (j) has been untruthful to, has provided false or misleading information to, or has been subject to adverse comment from, any regulatory authority in Hong Kong or elsewhere;
 - (k) has in place sound corporate governance structure, for example, the composition of the board of directors and board committees including the proportion of directors being independent non-executive directors;
 - (l) has in place adequate internal control systems and procedures that would reasonably ensure that the persons that it appoints to act on its behalf, in relation to its conduct of the activity regulated under the relevant legal or regulatory requirements, meet the fit and proper criteria relevant to the regulated activity;
 - (m) maintains effective systems of risk management and internal controls and that risks are properly monitored and managed at the entity level or at group-wide basis (where relevant); or
 - (n) has established adequate internal controls on financial reporting that is effective to provide reasonable assurance regarding the reliability of financial statements or regulatory submissions (where relevant) in accordance with relevant principles.

5.2 Where a body corporate intends to become or has become a shareholder controller of an authorized insurer, the IA will, in addition to the matters referred to in paragraph 5.1 above, take into account

matters referred to in paragraphs 4.4 to 4.6 which are also applicable to the body corporate.

- 5.3 With regard to a prospective majority shareholder controller, in considering its internal controls and corporate governance, the IA will take into account whether the body corporate is subject to any prudential supervision by any regulatory authority in Hong Kong or elsewhere.

- 5.4 In respect of any event listed in paragraph 5.1 above, the IA, in considering whether the body corporate is fit and proper, will have regard to, inter alia, the relevance of the event, the passage of time since the event, the nature and seriousness of the event, the degree of involvement of the body corporate in the event and any information in the possession of the IA (whether provided by the body corporate or not) relating to any other company within the group of companies of the body corporate, as well as any information relating to the substantial shareholder and officer of the body corporate or such other company referred to above. If necessary, the IA may require further information regarding the event from the body corporate, the insurer or the relevant party concerned.

6. Effective Date

- 6.1 This revised Guideline comes into effect on the day on which Part 2 of the Insurance (Amendment) Ordinance 2023 comes into operation. The previous version of this Guideline shall be superseded on that day.

April 2024