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**MEMORANDUM OF UNDERSTANDING**

**between**

**the Mandatory Provident Fund Schemes Authority and**

**the Insurance Authority**

Hong Kong

20 April 2004

## **INTRODUCTION**

1. This Memorandum of Understanding ("MoU") sets out the framework agreed between the Mandatory Provident Fund Schemes Authority ("MPFA") and the Insurance Authority ("IA") (each referred to as a "party", together as "parties"), for strengthening co-operation in respect of supervision of entities or Mandatory Provident Fund ("MPF") intermediaries in which the parties have a mutual regulatory interest.

## **PRINCIPLES**

2. This MoU recognises the following principles:
  - (a) the parties will use their best endeavours to meet the terms of this MoU;
  - (b) for institutions, groups or MPF intermediaries where both the MPFA and the IA have an interest, the parties will use their best endeavours to ensure that there are no gaps in regulatory supervision and to eliminate the unnecessary duplication of supervisory effort;
  - (c) to the extent permitted by applicable laws, each party will use reasonable efforts to ensure that the other party is provided with all relevant information so that the other party may effectively perform its statutory functions;
  - (d) this MoU does not modify or supersede any law or regulation;
  - (e) this MoU does not detract from the respective statutory functions of the parties under the relevant Ordinances (including the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPFSO") and the Insurance Companies Ordinance (Cap. 41) ("ICO");
  - (f) this MoU does not amount to a delegation of any of the powers, duties and obligations of the parties;
  - (g) this MoU does not create, directly or indirectly, any rights, obligations or liabilities, enforceable by the parties or by any third party; and
  - (h) this MoU does not affect any arrangements under any other MoU that either party has entered into or may enter into with any other party.

## **CO-ORDINATION**

3. The following are circumstances which may be of supervisory concern to both parties :
  - (a) regulating MPF investment funds in the form of long term insurance policies providing retirement-related benefits (e.g. Class G and Class H insurance policies);

- (b) ensuring authorized insurers have adequate reserves for MPF guaranteed funds in the form of Class G insurance policies;
  - (c) monitoring of MPF intermediaries under the insurance regulatory regime; and
  - (d) regulating financial groups with both MPF scheme operators and insurance entities.
4. The parties will share any regulatory concerns or adverse findings discovered during their respective on-going supervisory processes following the information sharing mechanism set out in the next section. If either party notes a change in the condition of an entity under its supervision that could threaten the financial stability of the financial groups of which it is a part, the party noting the change will notify the other party of the relevant details immediately. Where necessary, the parties shall meet as soon as practicable to discuss a co-ordinated supervisory response.

### **INFORMATION SHARING**

5. By virtue of section 42(1)(d) of the MPFSO and section 53A(3)(e) of the ICO, the MPFA and the IA, respectively, may disclose information to the other where to do so will enable or assist the other to exercise its functions and it is not contrary to the interest of the scheme members/policy holders or the public interest to make such disclosure.

#### ***Regular Information Sharing***

6. Both parties shall make available to the other party the relevant data and information to facilitate high-level, off-site monitoring of activities that are of mutual supervisory interest to the parties.
7. Occasionally either party may take disciplinary action or other supervisory enforcement action against a regulated entity or its staff in which the other party has a supervisory interest. In these situations, the enforcing party shall provide prompt notification to the other party as soon as the enforcement or disciplinary action becomes probable.
8. As customer complaints can often provide insight into the effectiveness of various management controls, the parties shall periodically exchange the details of relevant complaints received, e.g. complaints in relation to insurers received by the MPFA, or complaints in relation to MPF schemes promoted by insurers / trustees or misconduct of MPF intermediaries received by the IA. In the event that either party receives a complaint that requires the input of the other party or the other party's handling, the receiving party shall forward the complaint immediately to the other party for necessary action. In these situations, both parties shall exchange information and keep the other party apprised of the progress in handling the complaint.

### ***Ad Hoc Information Requests***

9. During the course of normal activities, either party may, from time to time, need information on a particular entity (or entities) under the other party's primary supervision. In these situations, a party may request specific information on a specific entity (or specific entities) from the other party.
10. The requesting party shall request the information in writing conveyed by the most appropriate means having regard to the urgency of the matter in question. The request should be routed through the designated contact points of the two parties referred to in paragraph 20 below and shall include:
  - (a) the name(s) of the relevant entity (entities);
  - (b) the date or period for which the information is requested;
  - (c) a detailed description of the information requested; and
  - (d) the reason for the request.
11. Upon receipt of a request for information, the providing party will acknowledge receipt of the request, consider the request in the light of paragraph 5 above, and estimate any delivery date for the information.
12. The providing party will notify the requesting party as soon as possible if it is not able to provide the requested information as well as the rationale behind the refusal to provide the requested information. If possible, the providing party should suggest similar information available or other sources for the requested information.
13. If the providing party is unable to fulfil an information request, the requesting party may seek the necessary information from its regulated institution.

### ***Confidentiality and Use of Information***

14. Information is to be provided by each party in accordance with the law and for the purposes of assisting the other party in the performance of its regulatory functions.
15. Information so provided is to be used by the recipient only for the purposes of performing its regulatory and supervisory functions, and except as otherwise required by the relevant laws, should not be disclosed to any third party without the prior written consent of the party providing the information.
16. Each party will establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of such information.

### **MPF INSURANCE POLICY LIAISON GROUP**

17. An MPF Insurance Policy Liaison Group ("the Liaison Group") has been established between the two parties. Specifically, the Liaison Group's terms of reference are:
  - (a) To delineate the respective jurisdictions and responsibilities of the IA and the MPFA in the regulation of Class G and Class H insurance policies ("G & H

policies”) with a view to avoiding “regulatory overlaps” and bridging “regulatory gaps”;

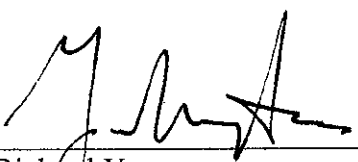
- (b) To establish channels for and facilitate exchange of information in relation to G & H policies, including insurers offering these G & H policies;
  - (c) To identify risk issues and explore means and measures to reduce risks associated with G & H policies; and
  - (d) To ensure consistent regulatory approach on the regulation of MPF business.
18. There will be regular meetings of the Liaison Group at intervals to be agreed between the parties to discuss current or evolving supervisory issues. These meetings will be chaired alternately by the parties and will be formally minuted.
19. Ad hoc meetings to deal with specific supervisory concerns, such as regulatory or disciplinary action, may be called by either of the parties and will be chaired by the one who initiates the meeting. These meetings will be formally minuted.

#### OTHER AREAS OF LIAISON

20. The parties will each appoint a person or persons to be the principal point of contact between the parties who will ensure the efficiency and effectiveness of the co-ordination and exchange of information processes between the parties. The Annex identifies the principal points of contact of each party. Either party may change its principal points of contact by giving written notice to the other.
21. The parties will liaise, consult each other and co-operate as far as possible on the form and content of guidelines, codes, etc. which cover topics of mutual concern (e.g. adequacy of reserving for MPF guaranteed funds) to ensure consistency.
22. Concerning the regulation of MPF intermediaries, the two parties and other financial regulators previously also entered into another MoU among them. Under that MoU, an MPF Intermediaries Regulation Co-ordinating Committee had been established among the regulators to co-ordinate the regulation of MPF intermediaries.

INSURANCE AUTHORITY

Signed for and on behalf of the  
MANDATORY PROVIDENT FUND  
SCHEMES AUTHORITY



Richard Yuen

Dated: **20 APR 2004**



Diana Chan

Dated: **20 APR 2004**

**LIST OF CONTACT PERSONS**

Mandatory Provident Fund Schemes Authority, Hong Kong

Chief Operating Officer (Compliance)

Alternate:

Senior Manager, Supervision Division

Insurance Authority, Hong Kong

Assistant Commissioner of Insurance, Policy and Development

Alternate:

Senior Insurance Officer, Intermediaries