

Notice No : MAS XXX

Issue Date : xx xxx 20xx

**NOTICE TO INSURANCE BROKERS AND ACCIDENT AND HEALTH
INSURANCE INTERMEDIARIES
INSURANCE ACT 1966**

**REPORTING OF MISCONDUCT OF BROKING STAFF BY
INSURANCE BROKERS AND OF REPRESENTATIVES BY
ACCIDENT AND HEALTH INSURANCE INTERMEDIARIES**

Introduction

1 This Notice (excluding the Annexes) is issued pursuant to section 154(4) of the Insurance Act 1966 ("the Act"). MAS 504 issued on 26 November 2010 is cancelled with effect from [effective date].

2 This Notice shall apply to —

- (a) all insurance brokers who are registered under section 76 of the Act or exempt from registration under section 92(1)(a) to (f) of the Act, in relation to their reporting requirements for the misconduct of their broking staff and former broking staff; and
- (b) all accident and health insurance intermediaries, in relation to their reporting requirements for the misconduct of their representatives and former representatives.

Definitions

3 For the purposes of this Notice —

“accident and health insurance intermediary” means a direct insurer, licensed financial adviser, exempt financial adviser, direct insurance broker or exempt direct insurance broker, which carries on a business in an accident and health insurance intermediary activity;

“accident and health insurance intermediary activity” —

- (a) in the case of a direct insurer or its representative, means arranging contracts of insurance in respect of any long-term accident and health

policy or life policy with accident and health benefits where the risks of such policy are underwritten by the direct insurer;

- (b) in the case of a licensed financial adviser, exempt financial adviser, direct insurance broker or exempt direct insurance broker, or a representative thereof, means –
- (i) as an agent for one or more insurers, arranging contracts of insurance in Singapore in respect of any long-term accident and health policy or life policy with accident and health benefits; or
 - (ii) as an agent for insureds or intending insureds, arranging contracts of insurance in Singapore in respect of any life policy with accident and health benefits, other than policies relating to reinsurance business;

“broking staff”, in relation to an IB, means a person who acts for, or by arrangement with, the IB in the performance of all or any of the insurance broking activities carried out by the IB;

“corrective action” means any disciplinary action taken by an IB or accident and health insurance intermediary against its broking staff or former broking staff or its representative or former representative (as the case may be), or any remedial measure taken by an IB or accident and health insurance intermediary, in respect of a misconduct;

“client” means an insured or intending insured;

“exempt direct insurance broker” means an exempt insurance broker carrying on business as an insurance broker in respect of insurance policies relating to general business and long-term accident and health policies, other than insurance policies relating to reinsurance business;

“exempt insurance broker” means a person carrying on business as an insurance broker who is exempt from registration as an insurance broker under section 92(1)(a), (b), (c), (d), (e) or (f) of the Act;

“IB” means a registered insurance broker or an exempt insurance broker;

“insurance broking activity” means –

- (a) receiving proposals for, or issuing, policies in Singapore;
- (b) collecting or receiving premiums on policies in Singapore; or
- (c) arranging contracts of insurance in Singapore,

as an agent for insureds or intending insureds in respect of –

- (i) policies relating to general business and long-term accident and health policies, other than insurance policies relating to reinsurance business; or
- (ii) reinsurance of liabilities under policies relating to life or general business;

“Investigation Report” means a report in the form set out in Appendix 1;

“MASNET” means MASNET or any electronic system which may be established by the Authority in place of MASNET;

“misconduct” means—

- (a) any act or omission in the performance of any insurance broking activity or accident and health insurance intermediary activity which amounts to gross negligence or which results in any inappropriate advice, inappropriate recommendation, misrepresentation, or inadequate disclosure of information to a client, including:
 - (i) the failure to exercise due care and diligence in understanding and satisfying the insurance requirements of the client or take all reasonable steps to act fairly in the interests of the client;
 - (ii) the making of a deceptive, false or misleading statement to a client; or
 - (iii) the failure to make adequate disclosure of all facts and information for the client to make an informed decision,

where the act or omission has a materially adverse impact on the interests of the client or impinges on the fitness and propriety of the broking staff or representative; or

- (b) any act involving fraud, dishonesty, illegal monetary gains, or any offence of a similar nature, such as cheating, forgery, dishonest misappropriation of monies, criminal breach of trust, bribery, money laundering and tax evasion;

“Misconduct Report” means a report in the form set out in Appendix 1;

“public authority” means any body established by or under any written law and exercising powers vested therein by written law for a public purpose;

“representative”, in relation to an accident and health insurance intermediary, means a person who acts for, or by arrangement with, an accident and health insurance intermediary in the performance of all or any of the accident and health insurance intermediary activities carried out by the accident and health insurance intermediary;

“Update Report” means a report in the form set out in Appendix 1.

Report on Misconduct of Broking staff

Submission of the Misconduct Report

- 4 If an IB has reasonable grounds to believe that—
- (a) its broking staff had committed any misconduct; or
 - (b) its former broking staff had committed any misconduct during the period when he was a broking staff of the IB,

the IB must submit a Misconduct Report to the Authority through MASNET, providing all the information and particulars required in the Misconduct Report in relation to the misconduct (called in this Notice “alleged misconduct”), no later than 21 calendar days, or such longer period as the Authority may allow in writing, after the date on which the IB first has reasonable grounds to believe that which is mentioned in sub-paragraph (a) or (b).

Other Submissions Accompanying the Misconduct Report

- 5 If the alleged misconduct falls within paragraph (b) of the definition of “misconduct”, an IB mentioned in paragraph 4 must —

- (a) assess whether it should lodge a police report in respect of the alleged misconduct; and
- (b) where it has not lodged a police report by the time it submits the Misconduct Report, submit to the Authority through MASNET at the same time as its submission of the Misconduct Report, the reasons for its decision not to lodge a police report.

6 Where an IB mentioned in paragraph 4 has lodged a police report in respect of the alleged misconduct by the time it submits the Misconduct Report, the IB must submit to the Authority through MASNET a copy of the police report together with the following information, where available, at the same time as its submission of the Misconduct Report:

- (a) the name of the police officer investigating the case;
- (b) the status of the police investigation and criminal proceedings (if any), including any outcome or result.

7 Where an IB has commenced an internal investigation¹ into the alleged misconduct by the time it submits the Misconduct Report, the IB must submit an Investigation Report to the Authority through MASNET, at the same time as its submission of the Misconduct Report.

Update on Report on Misconduct of Broking staff

Submission of Update Report

8 As and when there is any significant development in relation to the alleged misconduct after the Misconduct Report is submitted to the Authority, the IB must submit an Update Report to the Authority through MASNET, providing an update of the development, no later than 21 calendar days after the development or such longer period as the Authority may allow in writing.

9 In paragraph 8, “significant development” includes but is not limited to —

¹ An IB may refer to the Non-Mandatory Guidelines in Annex A on the expectations relating to the conduct of internal investigations into any misconduct.

- (a) the lodging of a police report by the IB on the alleged misconduct;
- (b) the completion of the IB's internal investigations into the alleged misconduct;
- (c) the taking of any corrective action by the IB, in respect of the alleged misconduct;²
- (d) the taking of any further action by the IB following an appeal against any corrective action; and
- (e) the IB being notified or made aware, through any source, of the outcome of police investigations or criminal proceedings (if any) in respect of the alleged misconduct.

Other Submissions Accompanying an Update Report

10 Where an IB lodges a police report on the alleged misconduct after it submitted the Misconduct Report, the IB must submit to the Authority through MASNET a copy of the police report together with the information mentioned in paragraph 6(a) and (b), where available, at the same time as its submission of the Update Report.

11 Where there is a significant development mentioned in paragraph 8 after an IB submitted the Misconduct Report and the information relating to that significant development falls within any of the data fields in the Investigation Report, the IB must submit an Investigation Report with that information to the Authority through MASNET, at the same time as its submission of the Update Report.

Provision of Misconduct Report and Update Report to Broking Staff

12 Subject to paragraph 15, where an IB has submitted a Misconduct Report to the Authority in accordance with paragraph 4, the IB must provide a copy of the Misconduct Report to the broking staff or former broking staff concerned, no later than 21 calendar days, or such longer period as the Authority may allow in writing, after the date of submission of the Misconduct Report to the Authority.

² An IB may refer to the Non-Mandatory Guidelines in Annex B on the expectations relating to the taking of corrective action in respect of any misconduct.

13 Subject to paragraph 15, where an IB has submitted an Update Report to the Authority in accordance with paragraph 8, the IB must provide a copy of the Update Report to the broking staff or former broking staff concerned, no later than 21 calendar days, or such longer period as the Authority may allow in writing, after the date of submission of the Update Report to the Authority.

14 For the avoidance of doubt, an IB is not required under paragraph 12 or 13 to provide to the broking staff or former broking staff, a copy of any Investigation Report or police report, or any information mentioned in paragraph 6(a) or (b), which the IB had submitted to the Authority together with a Misconduct Report or Update Report.

15 Paragraphs 12 and 13 shall not apply if –

- (a) the IB is acting, or is proposing to act, in connection with its internal investigation, and the provision of the copy of the Misconduct Report or Update Report (as the case may be) to the broking staff or former broking staff concerned is likely to prejudice that investigation;
- (b) the IB knows or has reasonable grounds to suspect that any officer of a public authority is acting or is proposing to act, in connection with an investigation which is being, or is about to be, conducted, and either –
 - (i) any officer of the public authority has requested for the IB not to disclose to the broking staff or former broking staff information in respect of the alleged misconduct which is contained in the Misconduct Report or Update Report; or
 - (ii) the provision of the copy of the Misconduct Report or Update Report (as the case may be) to the broking staff or former broking staff concerned is likely to prejudice that investigation or proposed investigation; or
- (c) the individual concerned is a former broking staff and the IB has taken reasonable steps but is unable to contact the former broking staff using his last known contact details.

Keeping of Relevant Records

16 An IB must keep proper records of –

- (a) documentary evidence that a copy of the Misconduct Report or Update Report has been provided to the broking staff or former broking staff concerned;
- (b) its assessment on the likelihood of prejudice to any investigation, if the IB does not provide a copy of the Misconduct Report or Update Report to the broking staff or former broking staff concerned in reliance on paragraph 15(a) or (b)(ii);
- (c) the request from the officer of the public authority, if the IB does not provide a copy of the Misconduct Report or Update Report to the broking staff or former broking staff concerned in reliance on paragraph 15(b)(i); or
- (d) the reasonable steps taken by the IB to contact the former broking staff, if the IB does not provide a copy of the Misconduct Report or Update Report to the former broking staff concerned in reliance on paragraph 15(c).

17 Where an IB conducts an internal investigation into an alleged misconduct, the IB must keep proper records of the following, where applicable:

- (a) a summary of the facts of the case, such as the source of the allegation or suspicion, the number of clients affected, details of relevant transactions and the financial impact on the clients;
- (b) accounts from relevant parties such as the broking staff or former broking staff, and the client;
- (c) documentary evidence of the alleged misconduct;
- (d) the investigator's assessment and recommendation;
- (e) corrective action taken, and basis for the corrective action;

- (f) appeal against the corrective action, along with assessment and the outcome of the appeal.

Application of this Notice to Accident and Health Insurance Intermediaries and their Representatives

18 Paragraphs 4 to 17 of this Notice apply to an accident and health insurance intermediary in relation to its representative or former representative, as they apply to an IB in relation to its broking staff or former broking staff.

19 This Notice shall take effect on [effective date].

Transitional Provisions

20 Despite paragraph 4, where an IB –

- (a) first had reasonable grounds to believe, more than 21 days before [effective date], that any type of misconduct within the definition of “misconduct” in paragraph 3 of this Notice was committed by its broking staff or its former broking staff when he was its broking staff;
- (b) has not submitted to the Authority a Misconduct Report, which is in the form set out at Appendix 1 of the Notice on Reporting of Misconduct of Broking Staff by Insurance Brokers (MAS Notice 504) (“**Cancelled Notice**”), in relation to the misconduct before [effective date]; and
- (c) was not required under the Cancelled Notice to submit a Misconduct Report (which is in the form set out at Appendix 1 of the Cancelled Notice) by <date immediately before [effective date]>,

the IB must submit to the Authority a Misconduct Report in relation to the misconduct under this Notice and any other document or information that may be required under paragraph 5 to 7 of this Notice, no later than 21 calendar days, or such longer period as the Authority may allow in writing, after [effective date].

21 For the purpose of paragraph 20, “broking staff” has the meaning given by paragraph 3 of the Cancelled Notice.

22 This Notice does not apply to or in relation to any of the following, and despite paragraph 1, the Cancelled Notice as in force immediately before [effective date] continues to apply to or in relation to any of the following as if this Notice has not been issued:

- (a) any case for which an IB submitted a Misconduct Report under the Cancelled Notice (which is in the form set out at Appendix 1 of that Notice) before [effective date];
- (b) any case for which an IB was required under the Cancelled Notice to submit an Misconduct Report (which is in the form set out at Appendix 1 of that Notice) by <date immediately before [effective date]>,

save that a reference in the Cancelled Notice to “MASNET” means MASNET or any electronic system which may be established by the Authority in place of MASNET.

Note:

Under section 142(3) of the Act, any person who is guilty of any breach of a duty imposed by this Act or any direction issued by the Authority (which would include this Notice) under section 154(4) shall be guilty of an offence and, where no penalty is expressly provided, shall be liable on conviction, other than in the case of an individual, to a fine not exceeding \$100,000 and in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

Misconduct Report, Update Report and Investigation Report

Please refer to Annex 2 of MAS' response to feedback received from the Consultation on Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives published on 14 May 2021 at this link:

<https://www.mas.gov.sg/publications/consultations/2018/consultation-paper-on-revisions-to-misconduct-reporting-requirements-and-proposals-to-mandate-reference-checks-for-representatives>

Guidelines on the Conduct of Internal Investigations

1 Where an IB has reasonable grounds to believe that any of its broking staff, or any of its former broking staff during his time as its broking staff, had committed any misconduct, an IB is expected to conduct internal investigations to establish if any misconduct was committed by the broking staff or former broking staff. The investigation process should incorporate relevant sources of information including the following, where applicable:

- (a) interviews with relevant parties, such as affected clients, and broking staff or former broking staff;
- (b) review of transactions;
- (c) assessment of sales documents, and other relevant information.

2 Paragraph 1 applies to an accident and health insurance intermediary in relation to its representative or former representative, as it applies to an IB in relation to its broking staff or former broking staff.

3 The guidelines in this Annex are issued pursuant to the Insurance Act 1966 (the “Act”) and provide guidance to IBs on the conduct of internal investigations into misconduct mentioned in MAS Notice XXX (“Notice”). The expressions used in these Guidelines have the same meanings as in the Notice. These guidelines should be read in conjunction with the provisions of the Act, the subsidiary legislation made thereunder, and other relevant legislation, notices, codes, guidelines and FAQs issued by the Authority. Any failure to comply with the guidelines set out in this Annex does not of itself render an IB or accident and health insurance intermediary liable to criminal proceedings.

Guidelines on Corrective Action

1 An IB is responsible for the conduct of its broking staff. It should take appropriate corrective action including such action against its broking staff or former broking staff for any misconduct committed by them in relation to the carrying on of insurance broking business and ensure consistency in its application of corrective action.

2 The type of corrective action that an IB may take against its broking staff or former broking staff in respect of any misconduct committed depends on the severity of the case and includes, but is not limited to, any one or more of the following:

- (a) suspension from carrying on any insurance broking business;
- (b) restitution of misappropriated monies;
- (c) fine;
- (d) warning;
- (e) demotion;
- (f) termination of the broking staff's employment or arrangement with the IB;
- (g) clawback;
- (h) re-training;
- (i) enhanced supervision and monitoring.

3 An IB should have an internal process for addressing the appeals against any corrective action.

4 Paragraphs 1 to 3 apply to an accident and health insurance intermediary in relation to its representative or former representative, as they apply to an IB in relation to its broking staff or former broking staff.

5 The guidelines in this Annex are issued pursuant to the Insurance Act 1966 (the “Act”) and provide guidance to IB on the taking of corrective action for misconduct mentioned in MAS Notice XXX (“Notice”). The expressions used in these Guidelines have the same meanings as in the Notice. These guidelines should be read in conjunction with the provisions of the Act, the subsidiary legislation made thereunder, and other relevant legislation, notices, codes, guidelines and FAQs issued by the Authority. Any failure to comply with the guidelines set out in this Annex does not of itself render an IB or accident and health insurance intermediary liable to criminal proceedings.