

The Hong Kong Federation of Insurers
Best Practice Guide for Insurance Companies on Contracting Procedures with
Insurance Agents

The objective of this guide is to set out best practices in the establishment of contracts between insurance companies* and insurance agent applicants (i.e. persons to be registered as individual agents (not insurance agencies) with the Insurance Agents Registration Board under The Code of Practice for the Administration of Insurance Agents) that are based on the principle of fairness.

The Contracts referred to include, but are not limited to, Agent's Contract and Financing Agreement (if applicable) along with the Current Compensation Package. The contracting process means the contract orientation, signing and confirmation set out below.

1. Responsibilities

- a. Insurance companies should have clearly defined roles and responsibilities of designated parties in the contracting process between the insurance companies and the insurance agent applicants. Insurance companies may delegate the contracting process to third parties, such as Agency Leaders. However, insurance companies shall remain responsible for the contracting process and shall ensure that they have documentary evidence of fulfilling this responsibility.
- b. Insurance companies should ensure that the designated parties have the adequate knowledge in properly discharging the insurance companies' responsibilities in the contracting process.

2. Contracts

- a. Insurance companies should select an official contract language (Chinese or English) for the purpose of contract signing.
- b. Where the official contract language is English, a true and accurate Chinese translation of the English version must be provided to the insurance agent applicant.
- c. A contract clause that imposes restrictions on business activities of outgoing insurance agents (except for objectively necessary and proportionate contractual restrictions for protection of insurance companies' legitimate interests including restrictions on use of confidential information belonging to insurance companies or on poaching of insurance companies' existing clients/employees/contractors etc.) should be prohibited.

3. Contract Orientation

- a. Insurance companies should inform the insurance agent applicant of his/her right to obtain all the documents to be signed by the insurance agent applicants such as Application for Insurance Agent's Contract and the Contracts (with a Chinese translation of the Contracts if English is the official contract language) for scrutiny at least 3 working days before the contract signing date.
- b. Insurance companies should provide the insurance agent applicant with HKFI's "Guide to Agents on Contracting Procedures with an Insurance Company".
- c. Insurance companies should make available a contact person (other than the person who conducts the contracting procedures) or a contact point to insurance agent applicants to make enquiries on the contracts.
- d. Insurance companies should provide the insurance agent applicants with sufficient review time (ie at least three working days) and information as per this Guide to facilitate that he/she fully understands his/her rights and obligations prior to contract signing.
- e. Insurance companies should remind the insurance agent applicant that he/she may seek independent professional advice (including legal advice). Insurance companies should also remind the agent applicant he/she may approach local association(s) of professional insurance agents for professional advice (including legal advice).
- f. If insurance companies conduct the contracting procedures through a third party, such as Agency Leaders, standard procedures should be established and observed. A best practice is to have a Checklist substantively as per the attached template be developed to guide and document the contracting procedures. Where such a Checklist is used, a signed copy should be provided to the insurance agent applicant.

4. Contract Signing

The Application for Insurance Agent's Contract and the Contracts must be signed by the contracting parties in Hong Kong.

5. Confirmation

Insurance companies should obtain confirmation and documentary evidence from both the designated parties who conduct the contracting procedures and the insurance agent applicant that the requisite contract orientation and contract signing procedures have been complied with.

Template Checklist for Agency Leaders / Managers
 供保險代理主管／經理人填寫之核對清單範本

(To be modified if other third parties conduct the contracting procedures 倘若由第三方執行訂立合約之程序，下文的用字亦應予以相應修訂)

Contracting Procedures with Insurance Agent Applicant
 與保險代理申請人訂立合約的程序

Name of Insurance Company 保險公司名稱:

Name and HKID Card No (first 4 digits) of Insurance Agent Applicant 保險代理申請人姓名及香港身份證號碼（首 4 字母／數字）: _____

Name and HKID Card No (first 4 digits) of Agency Leader / Manager for the contracting procedures 負責執行訂立合約程序的保險代理主管／經理人之姓名及香港身份證號碼（首 4 字母／數字）: _____

The Checklist must be completed by the Agency Leader / Manager:
 本核對清單必須由保險代理主管／經理人填寫：

	Contracting Procedures 訂立合約之程序
__ Yes 有 (Date 日期:) __ No 否 Reasons 原因: _____ _____ _____	1. Have you provided the following documents to the insurance agent applicant? 你有否提供以下文件予保險代理申請人： a. Application for Insurance Agent's Contract 保險代理合約申請書 b. Agent's Contract (English version & Chinese version) 保險代理合約（中及英文版本） c. Financing Agreement (English version & Chinese version) 貸款協議書（中及英文版本） <input type="checkbox"/> Applicable 適用 <input type="checkbox"/> Not Applicable 不適用 d. Current Compensation Package 現有待遇安排 If Yes, please state date. 如有，請註明日期。 If No, please provide reasons. 如否，請提供原因。
___ Yes 有 ___ No 否 Reasons 原因: _____	2. Have you informed the insurance agent applicant of his/her right to request an advance copy of the documents in (1) above for scrutiny prior to signing? 你有否告知保險代理申請人他／她有權於簽署合約前索取第(1)項所列的文件副本，以資參閱？

(as at January 2016 / 2016 年 1 月版)

<p>_____</p>	<p>If Yes, please answer (3). 如有，請回答第(3)項。 If No, please provide reasons and proceed to (4). 如否，請提供原因及回答第(4)項。</p>
<p>___ Yes 有 ___ working days 個工作天</p> <p>___ No 否 Reasons 原因: _____ _____</p>	<p>3. Has the insurance agent applicant requested an advance copy of the documents in (1) above? If yes, how many working days in advance did you give him/her such documents? If No, please provide reasons. 保險代理申請人有否於簽署合約前索取第(1)項所列的文件副本？如有，你於簽署合約日期的多少個工作日前將有關文件交予保險代理申請人？如否，請提供原因。</p>
<p>___ Yes 有(Date 日期:___)</p> <p>___ No 否 Reasons 原因: _____ _____</p>	<p>4. Have you provided to the insurance agent applicant the HKFI's "Guide to Agents on Contracting Procedures with an Insurance Company (For Reference of Insurance Agent Applicants)"? If Yes, please state date. If No, please provide reasons. 你有否為保險代理申請人提供「保險公司與保險代理訂立合約的程序指引（供保險代理申請人參考）」？如有，請註明日期。如否，請提供原因。</p>
<p>___ Yes 有</p> <p>___ No 否</p>	<p>5. Have you explained to the insurance agent applicant the rights and obligations of both the agent and the Insurance Company under the Agent's Contract including the rights and obligations relating to the following matters? 你有否向保險代理申請人解釋在保險代理合約下，保險公司及保險代理申請人的權利和責任，包括關乎以下事項之權利與責任：</p> <ul style="list-style-type: none"> ● Financing agreement (e.g. Join-in bonus, sign-on fee, financial advances and other similar incentives) 貸款協議（如：入職花紅、簽約金、預付款項及其他類似獎勵 <input type="checkbox"/>Applicable 適用 <input type="checkbox"/>Not Applicable 不適用 ● Training and training fee 培訓及培訓費用 <input type="checkbox"/>Applicable 適用 <input type="checkbox"/>Not Applicable 不適用 ● Commission clawback 佣金回扣 <input type="checkbox"/>Applicable 適用 <input type="checkbox"/>Not Applicable 不適用 ● Repayment terms of any of the above amounts to the Insurance Company 向保險公司退還上述各項金額的合約條款 <input type="checkbox"/>Applicable 適用 <input type="checkbox"/>Not Applicable 不適用 ● Adjustment of production requirements 調整對營業額的要求 <input type="checkbox"/>Applicable 適用 <input type="checkbox"/>Not Applicable 不適用

(as at January 2016 / 2016 年 1 月版)

	<ul style="list-style-type: none"> ● Termination of the Contract 終止合約 ● De-registration with the Insurance Agents Registration Board 於保險代理登記委員會撤銷登記
___ Yes 有 ___ No 否	<p>6. Have you reminded the insurance agent applicant that he/she may seek independent professional advice (including legal advice) for his/her contractual rights and obligations at his/her own cost (if applicable)?</p> <p>你有否提醒保險代理申請人，他／她可以就合約的權利及責任，自費（如適用）尋求獨立專業意見〔包括法律意見〕？</p>
___ Yes 有 ___ No 否	<p>7. Have you informed the insurance agent applicant of the Insurance Company's contact information for any contract-related enquiries?</p> <p>你有否告知保險代理申請人有關保險公司的聯絡方法，以供他／她查詢合約相關事宜？</p>

To be completed by Agency Leader / Manager 由保險代理主管／經理人填寫

I hereby confirm that I have conducted the above Contracting Procedures with the Insurance Agent Applicant and that the above information is complete and correct.

本人在此確認本人已與保險代理申請人完成上述訂立合約之程序，並確認上述資料為完整及真確無訛。

Signature of the Agency Leader / Manager 保險代理主管／經理人簽署：

Date 日期: _____

To be completed by Insurance Agent Applicant 由保險代理申請人填寫

I hereby confirm that the Agency Leader / Manager has conducted the above Contracting Procedures with me and has provided me with sufficient time and guidance to facilitate me to fully understand my rights and obligations prior to contract signing.

本人在此確認保險代理主管／經理人已與本人完成上述訂立合約之程序，並已提供充分時間與指導，以助本人於簽署合約前充分了解本人的權利與責任。

(as at January 2016／2016 年 1 月版)

The documents in (1) that are provided to me and the explanation in (5) that is given to me are confidential information of [name of insurance company]. I shall not, without the prior written consent of [name of insurance company], make copies or disclose any part of such confidential information to any third party (other than my legal advisers for the purpose of seeking independent legal advice) before the relevant documents are duly signed by me. If I decide not to proceed with signing the Contracts with [name of insurance company], the said confidential information will be shredded or returned to [name of insurance company] immediately.

第(1)項所列已提供予本人的文件，及就第(5)項給予本人的解釋皆為[保險公司名稱]的機密資料。在本人未簽妥相關文件前，除非取得[保險公司名稱]事先書面同意，否則本人不可複印或向任何第三方（除為本人提供獨立法律意見的法律顧問外）披露有關機密資料的任何部份。倘若本人決定不與[保險公司名稱]訂立合約，本人將立即銷毀或交還上述機密資料予 [保險公司名稱]。

Signature of the Insurance Agent Applicant 保險代理申請人簽署：

Date 日期: _____

*Notes: 1) *Insurance companies include Lloyd's *保險公司包括勞合社*

2) This document has covered all core areas but Member Companies should supplement their procedures as they consider appropriate.

(as at January 2016 / 2016 年 1 月版)

The Hong Kong Federation of Insurers
香港保險業聯會
Guide to Agents on Contracting Procedures with an Insurance Company
保險公司與保險代理訂立合約的程序指引
(For Reference of Insurance Agent Applicants) (供保險代理申請人參考)

An insurance company* must provide the “Guide to Agents on Contracting Procedures with an Insurance Company” (“Guide”) to every insurance agent applicant (i.e. a person to be registered as an individual agent (not insurance agency) with the Insurance Agents Registration Board under The Code of Practice for the Administration of Insurance Agents) prior to entering into a contract with the applicant. This Guide sets out the important points to note to ensure the insurance agent applicant is fully aware of his/her rights and obligations.

保險公司* 與保險代理申請人（即根據《保險代理管理守則》向保險代理登記委員會登記成為個人保險代理（保險代理商除外）的人士）訂立合約前，必須為他/她提供一份「保險公司與保險代理訂立合約的程序指引」（「本指引」）。本指引詳列訂立合約時需注意的要點，以確保保險代理申請人充分知悉其權利與責任。

The contract includes, but is not limited to, the Agent’s Contract, Financing Agreement (if applicable) along with the Compensation Package.

合約包括但不僅限於代理合約、貸款協議書（如適用），以及待遇安排。

1. You have the right to request a copy of the contract and the application for insurance agent’s contract before the contract signing date (e.g. at least 3 working days in advance). You also have the right to be given adequate time to read and fully understand the terms of the contract before signing.

1. 你有權於簽署合約日期之前（如：最少三個工作日前），索取合約副本及保險代理合約申請書副本。你亦有權要求在簽署合約前有足夠時間細閱及充分了解合約條款。

Please note whether you have been provided with a copy of the contract and the application for insurance agent’s contract before signing the contract.

注意：你是否在簽署合約之前已取得合約副本及保險代理合約申請書副本？

2. You have the right to obtain the English and Chinese versions of the contract. If the insurance company’s official contract language is English, the Chinese translation must be made available to you.

2. 你有權索取合約的中及英文版本。倘若保險公司以英文為正式合約語文，則必須為你提供該合約的中譯本。

Please note whether you have been provided with both the English and Chinese versions of the contract.

注意：你有否已取得合約的中英文版本？

(as at January 2016 / 2016 年 1 月版)

3. You have the right to ask and obtain a proper explanation of your rights and obligations, as well as the insurance company's rights and obligations, under the contract including but not limited to the rights and obligations relating to the following:

- Financing agreement e.g. join-in bonus, sign-on fee, financial advances and other similar incentives (if applicable)
- Training and training fee (if applicable)
- Commission clawback (if applicable)
- Repayment terms of any of the above amounts to insurance company (if applicable)
- Adjustment of production requirements (if applicable)
- Termination of the contract
- De-registration with the Insurance Agents Registration Board

3. 你有權就合約有關雙方（保險公司及保險代理）的權利和責任，作出查詢及取得恰當的解釋，而有關權利與責任包括但不限於下列各項：

- 貸款協議如入職花紅、簽約金、預支付款及其他類似獎勵（如適用）
- 培訓及培訓費用（如適用）
- 佣金回扣（如適用）
- 向保險公司退還上述各項金額的合約條款（如適用）
- 調整對營業額的要求（如適用）
- 終止合約
- 於保險代理登記委員會撤銷登記

Please note whether you have received proper explanation of your rights and obligations, as well as the insurance company's rights and obligations, under the contract.

注意：就合約有關雙方（保險公司及保險代理）的權利和責任，你是否得到恰當的解釋？

4. You have the right to make enquiries about the contract. Insurance companies should provide contact information (e.g. a contact person other than the person who conducted the contracting procedures with you) to answer your enquiries.

4. 你有權就合約作出查詢。保險公司應為你提供查詢方法(例如由一位非與你進行訂立合約程序的人作為聯絡人)，以解答你對合約事宜的查詢。

Please note whether you have been informed of the insurance company's contact information for any contract-related enquiries.

注意：就合約事宜的查詢，你是否得悉保險公司的聯絡方法？

5. You are reminded that you may seek legal advice on your rights and obligations under the contract at your own cost (if applicable).

5. 你可以就合約的權利及責任，自費（如適用）尋求法律意見。

(as at January 2016 / 2016 年 1 月版)

Please note whether you have been reminded that you may seek legal advice at your own cost (if applicable).

注意：你是否得悉可以就合約的權利及責任自費（如適用）尋求專業意見？

6. You are reminded that you may approach local associations(s) of insurance agents for independent professional advice (including legal advice) on the general terms of insurance agency contracts and the points to note when entering into the contracts.

6. 你可以聯絡本地保險代理組織，就保險代理合約的一般條款及訂立合約時需注意事項，尋求獨立專業意見〔包括法律意見〕。

Please note whether you have been reminded that you may seek independent professional advice (including legal advice) from local associations of insurance agents.

注意：你是否得悉可以向本地保險代理組織尋求獨立專業意見〔包括法律意見〕？

*Notes: 1) *Insurance companies include Lloyd's *保險公司包括勞合社*

2) This document has covered all core areas but Member Companies should supplement their procedures as they consider appropriate.

(as at January 2016 / 2016 年 1 月版)